MASS. CA1.2:T68

UMASS/AMHERST
312066 0272 8612 4

TRANSITION REPORT

EXECUTIVE OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

MISSION STATEMENT

Created by Governor Francis W. Sargent in 1969, the Executive Office of Consumer Affairs and Business Regulation (EOCABR) is a cabinet level office responsible for safeguarding the interests of Massachusetts' 5.7 million consumers. Its fundamental purpose is to ensure that the ten agencies under its supervision act effectively to protect the Commonwealth's citizens from unfair and unsound practices in some of the state's biggest, most powerful, and most sensitive industries. The following agencies operate within the EOCABR secretariat: Division of Banks, Division of Insurance, Division of Energy Resources and Energy Facilities Siting Council, Department of Public Utilities, Division of Standards, Alcoholic Beverages Control Commission, Racing Commission, Cable Television Commission, Board of Registration in Medicine, and a Division of Registration that oversees 31 licensing boards.

As the state's "consumer advocate", EOCABR deals directly with more than 1,400 consumers a week. Specific programs are described in the sections that follow.

GOVERNMENT DOCUMENT COLLECTION
JUN 14 1991
University of Massachusetts Depository Copy

BUDGET STATUS

9200-0100 EXECUTIVE OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$744,357	$0	18
FY89	$770,443	$0	20
FY90	$685,623	$0	14
FY91	$575,410	$0	14

FY'91 funding for the office stands at $575,410. There are 14 employees, including the secretary, two assistant secretaries, the general counsel (who acts as the legislative liaison for the entire secretariat), a director of consumer education, a fiscal director, and a press secretary (who coordinates media relations for the whole secretariat).

9200-0150 NEW AND USED CAR ARBITRATION PROGRAMS

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$138,562	$45,825	3
FY89	$309,709	$16,982	6
FY90	$283,709	$16,049	4
FY91	$259,944	$15,324	3

The New and Used Car Arbitration Programs operate out of EOCABR and are funded at $259,944 for FY'91. There are three employees.

911/252

PROGRAMS/ACCOMPLISHMENTS

Consumer Information Line: The Executive Office runs a consumer information and referral hotline. Staff and interns trained in consumer law answer questions about landlord/tenant law, car repair and sales, contract law, defective goods, and other problems encountered by individual consumers. If information alone is not enough to solve the consumer's problem, staff refer callers to another appropriate agency. This service logs more than 50,000 calls per year.

Consumer Education: EOCABR publishes 30 free pamphlets, the only public source of objective, non-commercial printed consumer information in the state. These publications are distributed directly to consumers and through a network of about two dozen local consumer programs.

In addition, the office provides consumers with comparison shopping data. EOCABR staff conduct surveys to collect information on bank fees, generic drug prices, telephone rates, and other topics; and agency staff conduct periodic surveys on gasoline and heating oil prices, and credit card and mortgage rates. Results are publicized through media outlets and have helped consumers save significant amounts of time and money. In addition, "consumer attitude" surveys have identified problems -- timeshare ripoffs, retailer overcharging, and telemarketing abuses -- for further investigation and legislative action.

Lemon Law Arbitration Programs: The office administers two legislatively enacted programs: the New Car Lemon Law Arbitration Program, and the Used Vehicle Warranty Law Arbitration Program. Both programs offer consumers a fair hearing if the new or used car they have purchased meets the laws' definition of defective. Since the programs started in 1986 and 1988, consumers who bought lemons have received more than $25 million in refunds and vehicle replacements. Our lemon law has received national and international recognition, and has been used as a model in other states. With the average price of a new car hovering in the $17,000 range and the state's median income for a family of four at $42,295 (1986 data, U.S. Census Bureau), buying a new vehicle represents a significant investment for most families. These programs offer a cost-effective remedy to the state's number one consumer problem, getting auto makers and dealers to take back or repair defective autos.

Investigations: In recent years, the office has investigated timeshare promotions, health clubs, supermarket pricing practices, airline advertising, bank charges, food freshness, and drugstore prescription pricing practices. Staff have uncovered bait and switch advertising through undercover investigations at car dealerships and weight loss programs. Results of investigations are made public to tell consumers how they can protect themselves, and to encourage those investigated to change their practices. Investigations have led to the filing of legislation to correct some of the marketplace abuses discovered.

Advertising Monitoring Program: The office monitors retail advertising and requires merchants who make unsubstantiated claims to modify their advertising or withdraw it. Over the past three years, more than a dozen of Massachusetts most prominent retailers have modified their advertising after

intervention by this office. Banks that do business in Massachusetts have altered their advertising campaigns to comply with voluntary advertising standards drafted by this office. On a national level, the office has challenged companies like Kraft/General Foods, Coca Cola, and Trump Airlines to substantiate their advertising claims or modify their advertisements. Recently, the office sought assistance from the Federal Trade Commission to stop deceptive children's advertising.

This program is also the only place in state government where businesses and consumers can lodge complaints against sellers for misleading advertising, and get advice on how to prepare advertisements that meet the requirements of state law.

Consumer Service Coordination: Providing high quality, direct consumer service is a long-standing priority of this office and all its agencies. EOCABR monitors agency performance, provides skills training to enhance the capabilities of line personnel, and works to improve staff motivation by publicly recognizing the importance of their front-line public service role. In 1989, consumer assistance staff in EOCABR agencies handled more than 276,000 calls and over 31,000 complaints, and helped consumers obtain $2.1 million in refunds, waived charges, and other forms of restitution.

POLICY INITIATIVES

Legislation: EOCABR has sponsored or endorsed dozens of pieces of legislation, many of which have become law. In addition to negotiating passage of the lemon laws, the office was successful in enacting a new state item pricing law to assure that computerized checkout terminals charge consumers accurately; and the waiver of consumer rights law which bans the use of waivers so that consumers cannot be intimidated into signing away their rights.

Energy Policy: EOCABR plays a pivotal role in monitoring and coordinating the development of the state's energy policy. Responsible for overseeing the state's Division of Energy Resources, the Energy Facilities Siting Council and the Department of Public Utilities and for protecting the interests of consumers, the Executive Office acts as the Governor's key advisor on energy-related issues at both the state and national level. The office also works with constituent and industry groups to identify and address emerging policy issues.

Community Reinvestment and Fair Banking Practices: EOCABR played a central role in strengthening the state's Community Reinvestment Act. Chapter 120 of the Acts of 1990 was passed in July to combat "redlining" and ensure equal access to credit for residents of the state regardless of their race or place of residence. It enhances the system used by the Division of Banks to determine whether banks are dealing fairly with all loan applicants by authorizing the division to make evaluation reports available to the public.

The same act gave the Commissioner of Banks broad consumer protection powers. This office testified at hearings held recently by the Division of Banks to make specific recommendations on the development of strong, fair consumer banking standards. The new regulations provide a quick method for

identifying banks that do not deal honestly with their customers and requiring them to discontinue unfair or deceptive practices.

Auto Insurance Reform: In 1988, EOCABR led a coalition of consumer advocates, insurers, and public officials in efforts to pass a comprehensive Auto Reform Law designed to control car insurance rates in Massachusetts. The most significant reform authorized by that law involved reorganizing Commonwealth Automobile Reinsurers (CAR) -- the state's "high risk" pool -- to reduce its share of the market. Other cornerstones of that law have been set in place over the past two years and include: regulation of car repair and auto body shops, a Safe Driver Insurance Plan (SDIP) that rewards good drivers with credits on their insurance premiums and requires bad drivers to pay extra, a program that requires people who drive high priced, theft-prone vehicles to install anti-theft devices or pay more for their car insurance, and a pre-inspection program for used cars.

The office also oversees an Auto Education Program funded through a $100,000 assessment on the insurance industry. The purpose of the program is to develop educational initiatives and materials that encourage safe driving habits and bring down the cost of auto insurance for consumers. This year, staff assisted in writing and designing "Smart Choices", a guide on buying auto insurance. The guide is being distributed to approximately three million Massachusetts drivers.

AIDS Working Group: Initiated by this office, the group developed guidelines for ethical conduct involving doctors and other licensees who contract AIDS and for professional interaction with clients who are HIV-positive or who have AIDS. Each of the 31 boards of registration, as well as the Board of Registration in Medicine, has adopted appropriate guidelines.

CURRENT AND FUTURE ISSUES

Legislative Priorities: On November 7, EOCABR filed a package of 13 important consumer protection bills (see Appendix A). Drafted to remedy recurring problems, the bills focus on deceptive advertising practices, 900 telephone numbers, timeshare operations and promotional materials mailed in government envelope lookalikes, car repair overcharges, telephone solicitation abuses, and dishonest home improvement contractors. Active lobbying for this proposed legislation by the new secretary is crucial to the advancement of consumer protection in the Commonwealth.

Auto Insurance Reform: Auto insurance reform will continue to require attention. Efforts must continue to reform the structure and governance of Commonwealth Automobile Reinsurers (C.A.R.), the state's residual auto market. Reducing the number of motorists insured by C.A.R. is vital to stabilization of the auto insurance industry in Massachusetts.

Insurance Industry and Financial Oversight: In 1989, the assets of the 76 domestic insurance companies overseen by the Division of Insurance totalled $115.9 billion. The number of out-of-state companies doing business in the state now totals 1,003. All must be monitored closely for financial viability. This is especially critical in light of the current economic downturn and public concern raised by recent events involving the savings and

loan, banking, junk bond, and real estate industries. EOCABR must continue to work with the Insurance Commissioner to protect the interests of consumers by ensuring the solvency of insurers through regular financial examinations.

Workers' Compensation Reform: Stabilizing the workers' compensation insurance industry in Massachusetts is vitally important for every employer and employee in the state. Reducing the number of businesses insured by the high risk pool is critical to bringing the pool's deficit under control. In addition, steps must be taken to bring workers' compensation insurance premiums down by putting into place recently approved reform proposals involving loss management and revised experience-based rating systems.

Health Care Financing: The hospital financing provisions of Chapter 23 of the Acts of 1988 sunset on September 30, 1991. These provisions involve the free care pool, bad debts, and the method for setting hospital charges. Ensuring that working families and the elderly can afford health insurance and that the health care system is adequately financed must continue to be a top priority of this office.

Banking Industry: EOCABR must continue to work with the Division of Banks to monitor the financial health of the state's banking industry. The Division of Banks has closed four state-chartered banks this year; and federal agencies have closed three federal banks and placed one in conservatorship. This office notifies the Governor when actions are expected and coordinates the release of information to the news media, other key administration officials, and appropriate state and local elected officials. All closings have been well managed and depositors of state-chartered banks have suffered very little disruption in banking services. To date, there has been minimal erosion of confidence in the underlying stability of the state's banking industry.

Energy Costs and Supply: The course of events in the Persian Gulf and the severity of winter will influence energy costs and supply. Due to the economic downturn, rising unemployment rate and lack of fuel assistance funds, energy issues will continue to be an extremely important. EOCABR must continue to track developments on both the state and national level and speak out on behalf of Massachusetts residential and industrial consumers.

Integrated Resource Management: Two EOCABR agencies, the Department of Public Utilities and the Energy Facilities Siting Council (part of the Division of Energy Resources), are involved in this unique initiative. Under the Integrated Resource Management Program (IRM), utility companies are required to evaluate all available sources of power, including the implementation of conservation programs, and choose the least expensive option when planning to meet their future power needs. Most importantly and far-reaching, however, IRM also requires the companies to add in the environmental costs associated with each energy option when determining the total cost of the option. This will put environmentally sensitive energy projects on a more competitive footing with those that may cost less initially but ultimately cause damage to the environment. It will also provide an incentive for utilities to undertake environmentally safe projects. The office should maintain an active role in coordinating start-up of IRM.

Digitized by the Internet Archive
in 2012 with funding from
Boston Library Consortium Member Libraries

http://archive.org/details/transitionreport1991mass

Board of Medicine: On July 1,1990, recently enacted legislation shifted the responsibility for hearing disciplinary cases from the Board of Medicine to the Division of Administrative Law Appeals. EOCABR must continue to work with the board and its Executive Director to monitor the handling of these cases at DALA and assure that the cases are heard in a timely manner. The new law did not affect any other aspect of the board's operation. The board retains its authority to investigate complaints against doctors, as well as to determine and issue final disciplinary actions.

Cable Television Reregulation: In its next session, the U.S. Congress is expected to enact legislation to reregulate the cable television industry. When this happens, the Cable Television Commission will become the final arbiter of rates for the state. EOCABR and the commission should continue to monitor activities in Washington and work closely with our Congressional delegation to assure that strong consumer protection standards are included in any federal legislation.

AGENCY DESCRIPTIONS

The following pages contain short descriptions of each EOCABR agency. Information on the agency's mission, budget status, programs and accomplishments, and important current and future issues is included. A summary of agency spending by account is included as a final section.

DIVISION OF BANKS

MISSION STATEMENT

The Division of Banks regulates the financial safety and soundness of the state-chartered banking system. It also enforces the Massachusetts Community Reinvestment Act and the Commonwealth's many consumer credit compliance and licensing statutes. The division meets its statutory and regulatory obligations through a staff of 209 career field examiners, professional managers and support staff.

BUDGET STATUS

9221-1000 DIVISION OF BANKS

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$5,988,005	$8,153,263	162
FY89	$6,031,654	$9,864,509	156
FY90	$5,891,861	$11,588,655	143
FY91	$7,215,552	$15,020,954	209

The Division's FY'91 maintenance budget appropriation stands at $7,080,153 after $355,000 in interim cuts were ordered by the Administration. Current staffing levels reflect the Budget Control and Reform Act of 1989, Chapter 653 of the Acts of 1989, which significantly increased the number of full time employees in response to deteriorating conditions in the banking industry. The Legislature authorized and funded 72 new, entry level Bank Examiner I positions to increase the frequency of bank

examination requirements. High housing costs, high mortgage rates and strict mortgage underwriting criteria imposed by the secondary mortgage market are commonly cited as factors contributing to the inability of low and moderate income persons to obtain mortgages and to find affordable housing. The division has adopted comprehensive new consumer protection standards for banks and has taken steps to coordinate its programs with other state and federal agencies, community groups and the banking industry to work towards finding a solution to the affordable housing crisis.

DIVISION OF INSURANCE

MISSION

The Division of Insurance is a regulatory agency charged with protecting consumers and fostering a healthy and responsible insurance market. The division sets rates for private passenger automobile insurance, MEDEX, nongroup and workers' compensation insurance. It inspects and audits insurance entities for their ability to conduct business and to fulfill obligations to policy holders; regulates and sets rates for specific product lines; authorizes the existence of insurance providers such as Health Maintenance Organizations and Preferred Providers; and licenses agents, brokers, public fire loss adjusters, insurance advisers, and auto damage appraisers. The Board of Appeal on Motor Vehicle Liability Policy and Bonds hears appeals under the Safe Driver Insurance Plan, and on decisions of the Registrar of Motor Vehicles and automobile insurance cancellations.

BUDGET

9222-0100 DIVISION OF INSURANCE

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$5,295,149	$20,981,968	154
FY89	$5,800,000	$21,496,449	152
FY90	$5,545,922	$25,673,270	129
FY91	$5,298,792	$24,609,000	127

9222-0101 AUTO DAMAGE APPRAISERS BOARD

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$0	$0	0
FY89	$0	$0	0
FY90	$0	$0	0
FY91	$50,000	$140,000	2

9222-0199 BOARD OF APPEAL

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$518,000	$317,420	12
FY89	$470,000	$440,725	12
FY90	$484,687	$441,850	11
FY91	$425,603	$900,000	12

examinations from a biennial to an annual cycle. Significant overall personnel reductions and savings were necessary in FY'89 and FY'90 notwithstanding the increase in bank examiner positions. During the last 18 months, over 15 positions have been eliminated including five managers, six senior examiners and four clerical personnel.

PROGRAMS/ACCOMPLISHMENTS

The Division's major accomplishment over the last eight years has been the rigorous examination and supervision of the Commonwealth's 472 state-chartered trust companies, savings banks, co-operative banks and credit unions. State-chartered financial institutions had $103.9 billion in assets as of December 31, 1989.

The regulation of the consumer credit practices of state-chartered financial institutions and the Division's 795 consumer credit licensees represents another major accomplishment. These licensees include: debt collection agencies, small loan agencies, retail installment sales and service agencies, motor vehicle sales finance agencies, insurance premium finance agencies, foreign transmittal agencies, and check and money order issuers.

A significant number of new laws were enacted and resulting programs initiated by the Division from 1983 to the present. These laws and programs include the: 18/65 Law (1983); Student Bank Law (1983); Mandatory Cashing of Certain Pensioners' Checks Law (1983); Telephone Information on Accounts and Services Law (1984); Truth-in-Savings Law (1984); Funds Availability/Check-Hold Law (1984 and 1988); Maximum Finance Charges under Open End Credit Rate Plan Law (1984); Mortgage Information Disclosure Act (1987); Mutual Holding Company Act (1987); Credit Card Disclosure Law (1987); Reverse Mortgage Loan Law (1990); Credit Union Laws Recodification (1990); and Community Reinvestment Act and Nationwide Interstate Banking Law (1990).

CURRENT AND FUTURE ISSUE

Bank Regulation: Current financial information indicates that the banking industry is suffering from significant weaknesses which will require greater regulatory oversight in order to avoid future safety and soundness problems. The severity of the situation affecting the Massachusetts banking industry is also evidenced by the number of bank failures and conservatorships in 1990. To date, eight Massachusetts banking institutions with over $4.9 billion in assets have been closed or seized by state or federal bank regulators. Four of these institutions were state-chartered banks with $1.64 billion in combined assets. Unfortunately, one or more state-chartered banking institutions are likely to fail in the next 18 months. Maintaining an annual bank examination schedule is of key importance in monitoring the safety and soundness of state-chartered institutions.

Community Reinvestment and Affordable Housing: The last 18 months saw a renewed interest in the Community Reinvestment Act and affordable housing issues, culminating in Chapter 102 of the Acts of 1990, the CRA and Nationwide Interstate Banking Act. The division is implementing the Act's stringent new consumer protection public disclosure, loan data collection and

The division generates revenue through licensing examinations, filing and other fees, and through assessments against insurance companies. The Board of Auto Damage Appraisers and the Board of Appeal both have retained revenue accounts. FY'91 funding is set at $5,298,792. The division employs 127 people. The Auto Damage Appraisers Board and the Board of Appeal are funded through retained revenue accounts totalling $50,000 and $425,603 respectively.

PROGRAMS/ACCOMPLISHMENTS

Auto Insurance: As a result of the Auto Reform Law of 1989, the division implemented a comprehensive reform of the state's auto insurance system. Actions included the development and implementation of major changes to the high risk pool, known as the Commonwealth Reinsurers Fund (C.A.R.), to reduce its share of the market. New regulations included special rate treatment for high theft vehicles, reduction in premiums for installation of safety devices; standards of approval for direct payment of auto repair shop plans; and the Safe Driver Insurance Plan, which provides enhanced credits for good drivers and graduated surcharges for bad drivers.

Health Care: To meet the needs of a growing community of health care providers and consumers, the division created a Health Care Policy Unit in 1986. The agency has promulgated important regulations regarding informed consent for AIDS testing and confidentiality of AIDS information; mandated full maternity coverage; adopted licensing standards for Preferred Provider Arrangements; mandated coverage for infertility; and developed minimum benefit and marketing standards for long-term care insurance. Substantial attention has been paid to improving oversight of HMOs. The division has undertaken a comprehensive examination of Blue Cross/Blue Shield to improve its market and financial condition.

Medical Malpractice: Following the 1986 Medical Malpractice Reform Act, the division created a Medical Malpractice Analysis Bureau to implement reforms to the malpractice insurance system. Reforms featured data collection and rate setting, regulating the Joint Underwriting Association that insures most Massachusetts physicians, and establishing a merit rating system. As a result of these efforts, medical malpractice insurance rates have stabilized and are now declining.

Workers' Compensation: The division has also worked to stabilize the workers' compensation market. In 1988, it approved the first reciprocal insurance plan and has monitored the growing interest in self-insurance in the workers' compensation area. Moreover, the division has issued regulations encouraging employers to implement risk management programs in an effort to reduce the size of the residual market.

Licensing and Monitoring: The division has also focused on oversight issues and consumer assistance initiatives. The licensing of individuals, corporations, partnerships and companies constitutes a large volume of work.

The division monitors the financial solvency of licensed/authorized insurers and prospective applicants through regular financial examinations and analysis of financial statements. It also is managing the insolvency of a large insurer. In addition to these investigative activities, the Division helps consumers resolve disputes with licensees. In 1989, the Division closed over 8,000 consumer complaint/inquiry cases resulting in the recovery of $935,000 for individual consumers.

CURRENT AND FUTURE ISSUES

Financial Solvency: The current economic downturn, and the public concern raised by the savings and loan crisis, has made it vital for the Division to ensure the financial integrity of the Commonwealth's insurers. Efforts must continue to provide credible regulatory oversight of solvency issues.

Auto Insurance: Prior to 1988, Commonwealth Automobile Reinsurers (CAR), the residual market mechanism, insured 70 percent of the market; today it insures 45 percent. Depopulation of CAR and the stabilization of rates should remain a goal of the next administration. The division also recommends a continued exploration of how to introduce the elements of competition to Massachusetts; and recommends a gradual movement toward competition to prevent the destabilization of the market that would occur should rates increase significantly for certain drivers.

Health Insurance: The division should continue to monitor Blue Cross/Blue Shield's internal management operations, as well as closely watch HMOs for financial stability.

Workers' Compensation: The division must explore ways of reducing the number of claims and maintaining the viability of the voluntary market.

Medical Malpractice: Two issues will be important during 1991 -- the decrease in 1991/92 malpractice rates and the attempts by the Joint Underwriters' Association to recoup alleged losses from earlier operations. The division must determine the amount to be paid and identify who will pay what share of the recoupment.

Privacy: The division would like to see the legislature pass a strengthened privacy bill. Currently Massachusetts consumers have little control over the confidential information that insurance companies may have on file and pass on to other companies.

DIVISION OF ENERGY RESOURCES

MISSION

The Division of Energy Resources (DOER) develops and implements energy policies and programs to ensure an adequate supply of reliable, affordable, and environmentally sound energy for Massachusetts. DOER has specific responsibility for emergency planning, forecasting, promoting conservation, enhancing development of energy alternatives and reducing dependence upon foreign oil. The Energy Facilities Siting Council (described in a separate section), a regulatory body, falls within the administration of this agency.

DOER was created in the early 1970s as an energy policy office within the Governor's Office. As a result of the energy crises of the 1970s, the office was elevated to cabinet status in 1979 as the Executive Office of Energy Resources. In 1989, the agency was reorganized as the Division of Energy Resources under the leadership of a commissioner and became an agency within EOCABR.

BUDGET

9275-0003 DIVISION OF ENERGY RESOURCES

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$1,673,379	$0	30
FY89	$1,650,000	$0	42
FY90	$1,040,151	$0	23
FY91	$823,044	$0	21

DOER's FY'91 main appropriation stands at $823,044. In addition, the agency also receives funds from other sources, including a utility assessment account, the Residential Conservation Service (RCS), funded at $170,000. DOER receives five federal grants, totalling $434,437 in FY'91, and channels approximately $1 million in federal funds to schools and hospitals through the Institutional Conservation Program. The agency also oversees five capital bond accounts totalling $2,737,000 that finance energy saving measures for cities and towns. DOER currently has 35 employees.

PROGRAMS/ACCOMPLISHMENTS

Over the last eight years, DOER has implemented a variety of programs designed to cut energy costs and ensure adequate supplies for all energy users. This continues to be a goal of the agency.

Policy and Planning: DOER has responsibility for energy emergency planning, developing plans to respond to energy supply disruptions, a responsibility made more pressing by the current Middle East situation. The agency also prepares an annual forecast, known as the SAFER project, to provide the state with an independent energy forecasting ability. In 1988, the division helped initiate a collaborative process with six Massachusetts utilities, the Conservation Law Foundation, the Attorney General's Office and MASSPIRG, to develop comprehensive, aggressive energy efficiency programs for implementation by utility companies. DOER was a chief intervenor in the 1989 Boston Edison rate case before the DPU, where a Demand Side Management Board was was established to oversee the spending of $75 million on energy efficiency programs. DOER has also worked to establish a framework for Integrated Resource Management (IRM) and has been a strong voice for the quantification of the environmental effects of new energy resources.

Programs: DOER also manages a range of conservation programs. These programs involve the interaction of the public and private sectors and conservation providers. The result is measurable conservation. They include the following: Energy Conservation Improvement aimed at cities and towns;

Alternative Energy Property Program, feasibility studies of alternative energy programs for public facilities; Institutional Conservation aimed at schools and hospitals; Nonprofit Energy Efficiency, targeted toward tax exempt nonprofit agencies; Energy Conservation Service and the Energy Advisory Service, aimed at residential utility ratepayers and commercial/industrial customers respectively; Home Energy Rating Service for prospective home buyers and lenders; and the Cogeneration Initiative, a pilot program for state facilities.

CURRENT AND FUTURE ISSUES

The current Mideast situation has made oil supplies and petroleum product prices a key issue. DOER should continue to track heating oil and gasoline prices and supplies, focus on conservation and continue efforts to diversify the state's energy supply sources. Increased use of natural gas continues to be a cornerstone of diversification. The office should continue to support the Iroquois Pipeline, which will provide an increased capacity to bring more gas to the Northeast, and support additional pipeline expansion. Although the economic downturn has temporarily brought electricity supply and demand into balance, this is a short-term situation. The Commonwealth will continue to meet its electricity need by requiring utilities to implement cost-effective conservation and by promoting development of new generating facilities that meet energy need in an environmentally sound manner. In the 1990s, the critical issue will be the relationship between energy and the environment. When considering among energy resource options, utilities must consider environmental costs as well as economic costs. Renewable resources, such as biomass and photovoltaics, are environmentally benign sources and are underutilized in this region. The Commonwealth should continue to support pilot projects in this area.

ENERGY FACILITIES SITING COUNCIL

MISSION

The Energy Facilities Siting Council (EFSC) is a regulatory agency within DOER with three major areas of responsibility. Balancing need, cost and environmental impact, the agency decides whether utilities and non-utility developers may construct major electric generating plants, electric transmission lines and intrastrate natural gas pipelines. The council reviews the adequacy of long-range supply plans for the state's utilities and represents the Commonwealth before the Federal Energy Regulatory Commission (FERC) when interstate natural gas pipelines petition FERC to construct lines in Massachusetts.

The council consists of ten members: the Commissioner of Energy as Chairperson, the Secretary of Consumer Affairs and Business Regulation, the Secretary of Economic Affairs, the Secretary of Environmental Affairs, and six public members representing engineering, environment, labor, electricity, gas and oil. Public members are appointed by the Governor for three year terms.

BUDGET

9275-0500 ENERGY FACILITIES SITING COUNCIL

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$466,414	$621,694	10
FY89	$525,000	$656,550	10
FY90	$570,000	$714,586	12
FY91	$568,800	$961,545	12

The council's operating funds are derived entirely from assessments on utilities. The FY'91 budget is $568,800 plus $130,000 in its expendable trust, an account which must be used exclusively for review of major energy facility cases. There are 12 staff. In FY'91, the council has two new programs mandated by statute, which will add to its budget. One new program is the Non-Utility Proposal (NUP) which allows for collection of a new $75,000 fee from non-utility developers who submit proposals to construct new energy facilities in Massachusetts. The NUP fee is to be deposited into a retained revenue account. Non-utility developers already pay a $10,000 filing fee that goes into the state's general fund. There are five non-utility proposals currently on file and four more anticipated in FY'91. The estimated revenues for the NUP account in FY'91 are $675,000, with $90,000 going to the general fund.

The other new program, the Integrated Resource Management Program (described below) is funded through an assessment of $225,000. The monies are to be deposited in a trust fund that will roll over each year and be used to administer the the program.

PROGRAMS/ACCOMPLISHMENTS

Over the past eight years, the EFSC's reviewed a growing number of facility cases to meet the state's energy need. Through a process that includes both public informational hearings and more formal evidentiary hearings, the council has worked to ensure the siting of least-cost, environmentally sensitive energy facilities. The council has approved the siting of three power plants: Northeast Energy Associates (Bellingham), Altresco (Pittsfield), and MassPower (Springfield). It has used its review of utility forecasts to push for least-cost planning. The council's work on the IRM process in collaboration with the Department of Public Utilities has established the movement to least-cost energy planning and eliminated regulatory overlap. EFSC has also signed Memoranda of Understanding with other state agencies to eliminate duplication of jurisdictions over the same energy facilities, approved the installation of hundreds of miles of gas pipelines and represented the state before FERC.

CURRENT AND FUTURE ISSUES

A key issue is administrative. Because of the large number of cases before the council, many of which are time sensitive, it is imperative that new cabinet appointees select their designees as soon as practicable. This is necessary for the issuing of final decisions. It is generally acknowledged that Massachusetts will need to develop additional generating facilities to meet its next century growth needs; therefore, EFSC anticipates

that the number of applications will increase. Currently six applications are before the Council -- Boston Edison's Edgar Station, Eastern Energy's New Bedford Coal Plant, West Lynn Creamery Cogeneration, Enron Power Cogeneration, Boston Thermal Cogeneration, and Altresco Lynn Cogeneration

IRM is a new framework that requires implementation over the next year. The council must hire and train new staff and continue to work with utilities and resource providers to explain and implement the plan. Pending full implementation of IRM, EFSC will continue to review supply plans and demand forecasts as part of a transition plan since new energy facilities cannot be constructed until utilities have council approved plans.

DEPARTMENT OF PUBLIC UTILITIES

MISSION

The Department of Public Utilities (DPU) is mandated to regulate the rates and quality of service offered by public utilities -- eight electric companies, 12 natural gas companies, and two major telephone companies -- and common carriers operating in the Commonwealth. The companies, which do about $8 billion in business in the state, provide electricity, natural gas, telecommunications, water and transportation services by trucks, rail and bus. DPU sets rates, enforces safety regulations, oversees quality of service, certifies providers and responds to consumer complaints. Rate cases and certain other types of cases require evidentiary hearings. DPU final decisions, known as orders, may be several pages long or several hundred, depending upon the type of case. Decision-making involves a multi-disciplined approach involving expertise in cost accounting, economics, engineering, rate design, law, public policy and a thorough knowledge of industry practice.

DPU is composed of five divisions separated by industry responsibilities and four divisions that support the agency's activities. The functional divisions are Transportation, Electric Power, Rates and Research (natural gas and water), Pipeline Safety, and Telecommunications. The Legal Division provides legal support for all divisions with attorneys who preside over the quasi-judicial evidentiary hearings. The Consumer Division handles complaints from residential consumers and conducts informal hearings if problems cannot be resolved through its mediation efforts. The Administration Division maintains DPU's dockets, and the Fiscal Division provides administrative support.

BUDGET

9270-0001 DEPARTMENT OF PUBLIC UTILITIES

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$3,470,817	$9,903,378	90
FY89	$3,397,737	$8,274,718	98
FY90	$3,300,755	$8,340,594	80
FY91	$3,194,928	$7,732,280	77

9272-0001 COMMERCIAL MOTOR VEHICLE DIVISION

TRANSPORTATION DIVISION

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$567,949	$2,457,910	17
FY89	$1,000,000	$3,593,200	32
FY90	$951,636	$3,090,429	30
FY91	$846,521	$3,373,820	23

Funding comes from three sources: general appropriations reimbursed by assessments on utility companies ($3.1 million); direct assessments on selected utilities ($1.9 million) and; general appropriations for the Transportation Division ($870,000). Revenue generated by DPU exceeds appropriations. The agency has 107 full-time employees. Statutory language creating several of the assessment accounts, including the Electric Power Division and the new IRM staff, requires hiring of "03" consultants; DPU has 34 contract employees.

MAJOR ACCOMPLISHMENTS

Over the last eight years, the agency has become a national leader in public utility regulation and has adopted innovative regulatory structures to ensure that Massachusetts consumers receive high-quality, reliable service at the lowest possible cost and in the most environmentally acceptable way. Despite its small staff, DPU has adopted regulatory initiatives that have established national trends in such areas as utility conservation, post-divestiture telephone practices, least-cost electricity generation and transmission planning, gas safety enforcement, fair and efficient rate structures, competitive opportunities for the transportation industry, and incentive ratemaking for utility energy conservation.

CURRENT AND FUTURE ISSUES

During the next year, the division will face many challenges. In addition to its normal work load, DPU will begin implementation of the IRM process for electric utilities. Together with the Energy Facilities Siting Council, DPU will require that electric utilities engage in a formal, comprehensive resource selection process to ensure that electricity suppliers and conservation efforts provide reliable, cost-effective and environmentally benign service to consumers. Although the goals of the IRM process are a continuation of current practice, the framework integrates an entire planning cycle for all utilities and reduces duplication among agencies. DPU will also have to make decisions relating to natural gas and electricity during a period of energy uncertainty. However, the agency is confident that its established framework will enable it to respond to existing and changing circumstances. There are also rapid changes in the telecommunications field which the agency should track and for which it is well-poised to respond.

DIVISION OF STANDARDS

MISSION

The Division of Standards administers the state's Weights and Measures Laws. It certifies commercial weighing and measuring devices in the 125 towns under 5,000 in population, issues rules and regulations relating to commercial weighing and measuring devices, and inspects for compliance by local officials in the Commonwealth's remaining 226 cities and towns. The division issues licenses to peddlers, auctioneers, motor fuel retailers, oil dealers, and transient vendors. It registers auto damage repair shops and enforces the Item Pricing Law in food stores.

BUDGET

9218-0100 DIVISION OF STANDARDS

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$713,509	$549,801	29
FY89	$740,000	$1,270,554	21.5
FY90	$724,053	$1,312,982	21
FY91	$638,422	$1,417,796	21

In FY'90, the agency generated revenues of over $1.3 million and had an operating budget of $725,000. FY'91 funding stands at $638,422 plus a new retained revenue account of $105,600. The division employs 21 people.

PROGRAMS/ACCOMPLISHMENTS

The division has increased its scope of activities without increasing its staff. Over the last several years, it has been assigned the additional duties of licensing auctioneers, registering auto damage repair shops, and enforcing the Item Pricing Law in food stores. Moreover, the agency has increased inspections and enforcement actions involving fuel oil and prepackaged meat.

CURRENT AND FUTURE ISSUES

To improve efficiency, the division must continue to computerize all licensing and registration functions in-house. The current system, where most licenses are printed by another state agency, is time-consuming and contributes to delay. Computerizing would enable fewer clerical staff to serve the public more efficiently.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

MISSION STATEMENT

The Alcoholic Beverages Control Commission (ABCC) is governed by the Liquor Control Act, enacted in 1933 in the wake of Prohibition. The commission supervises and regulates the conduct of the alcoholic beverages industry. It oversees the manufacturing, importing, exporting, storing,

transporting and selling of alcoholic beverages. Further, it monitors the quality, purity and alcoholic content of these beverages.

BUDGET

9212-0001 ALCOHOLIC BEVERAGES CONTROL COMMISSION

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$1,469,305	$1,131,777	36
FY89	$1,276,954	$1,442,684	35
FY90	$1,122,138	$1,475,065	28
FY91	$967,398	$1,372,515	27

In FY'90, ABCC collected $1,534,037 in fines and fees. It also cooperated with the Department of Revenue in collecting almost $9 million in overdue taxes from licensees.

The ABCC's budget for FY'91 is $967,398. The Commission is comprised of a chairman, who serves full-time, and two associate commissioners. The staff currently consists of 27 employees, down from 38 in 1988.

PROGRAMS/ACCOMPLISHMENTS

The commission accomplishes its mission chiefly through the licensing process. It is the sole licensing authority for manufacturers, wholesalers and importers, railroads, airlines and ships, as well as companies involved in the transport of alcoholic beverages. In FY'90, ABCC issued approximately 14,000 permits and licenses, and processed 12,000 renewals and 3,000 applications for new or amended licenses. The ABCC serves as an appellate body in the licensing of retail liquor sales. The Commission employs an investigative staff, which investigates complaints, chiefly about violations of law on licensed premises. The Commission held 451 hearings on such violations in FY'90.

In response to alcohol abuse and a high incidence of drunk driving accidents, ABCC promulgated regulations banning so-called "Happy Hours," (the first in the nation), and restricting alcoholic beverage sales on ships (the "booze cruise" regulations).

CURRENT AND FUTURE ISSUES

The commission has held that licensees assume an obligation to promote moderation and common sense in the drinking habits of their patrons. The most frequent charges brought before the commission are allowing an underage person to procure alcohol and allowing sale or delivery of alcohol to an intoxicated person. Budget cutbacks have resulted in fewer investigators and restricted travel budgets. This has damaged the commission's efforts to pursue these violations.

The agency has encouraged local licensing authorities and other elected officials to strongly enforce the liquor laws in their communities. While some communities have made substantial efforts, local enforcement generally

is uneven, inadequate and at times arbitrary. Closer cooperation with local authorities, increased monitoring of licensees and more careful oversight of local actions by the commission should be pursued.

STATE RACING COMMISSION

MISSION STATEMENT

The mission of the State Racing Commission is to supervise the conduct of the business of racing in Massachusetts. In its efforts to ensure fair and honest pari-mutuel racing, the commission promulgates and enforces rules and regulations, proposes legislation and develops policies to better regulate the racing industry. The commission is responsible for ensuring the safety and legitimate performance of all racing animals, and is also responsible for the integrity of pari-mutuel wagering.

BUDGET

9210-0001 STATE RACING COMMISSION

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$2,423,014	$34,384,303	43
FY89	$2,552,684	$33,629,784	41
FY90	$2,564,707	$33,000,000	39
FY91	$2,120,681	$31,209,000	37.5

In 1989, the Racing Commission collected $34,896,234 in revenues. In addition to licensing fees paid by individuals and tracks, each licensed race track pays the agency a daily commission, along with other fees and assessments. All unclaimed monies for outstanding tickets eventually revert to the Commonwealth.

The commission is comprised of a full-time chairman and two associate commissioners. No more than two commissioners may be from the same political party. Each serves a term coterminous with the governor.

The Racing Commission's budget is approximately $2.1 million for FY'91. The commission presently employs 38 full-time staff. It also employs more than 100 part-time staff on a consulting basis ("03 employees") who provide intermittent and highly specialized services during racing performances.

PROGRAMS/ACCOMPLISHMENTS

The commission is responsible for the issuance of licenses to associations who operate racetracks, as well as occupational licenses to every person who participates in racing. In FY'90, the State Racing Commission processed more than 7,000 license applications. It also investigated more than 500 violations of rules and regulations, and conducted more than 550 administrative hearings.

In 1987, the commission finished upgrading its data processing system, linking all of its field offices with its central offices and making a licensee database available to all field locations.

In 1988, the commission joined the Association of Racing Commissioners Quality Assurance and Blind Sample Drug Testing program. This program tests the ability of state racing laboratories to detect medications and drugs used in the racing industry. The commission is also an active member of the Association of New England Racing Commissions.

The commission has published a comprehensive manual which outlines policies and procedures for both administrative and regulatory operations, and has issued a regulatory guide for racing commission veterinarians addressing the health and welfare of the race horse at the track.

CURRENT AND FUTURE ISSUES

On November 15, 1990, the commission granted licenses for the 1991 racing season to: Massasoit Greyhound Association, Inc. and Taunton Dog Track, Inc. (Raynham-Taunton); Wonderland Greyhound Park, Inc.; Marshfield Agricultural and Horticultural Society; Hampshire, Franklin and Hampden Agricultural Society (Northampton); and Barrington Fair Association, Inc. (Great Barrington). The commission denied thoroughbred racing license applications submitted by the Boston Turf Club, Inc. (Suffolk Downs) and Foxboro Park, Inc. All votes were unanimous with the exception of Great Barrington which was two in favor of granting the license and one against.

The Racing Commission currently has seven cases pending in Superior Court in which it is a party. It is also involved in several investigations of possible improprieties at the greyhound racing tracks and agricultural fairs licensed by the commission.

The primary emerging policy issue involving racing is the issue of off track betting (OTB). The trend in thoroughbred racing in other jurisdictions has been towards OTB with simulcasting of live races to locations outside of the horse race track. OTB expands the track's market and makes wagering on horse racing more convenient for people who cannot or will not travel to the race track.

Simulcasting can be conducted intratrack (a host track simulcasts its races to another track in the same jurisdiction), intertrack (a host track simulcasts its races, or a few of its races, to tracks in other jurisdictions), or through teletheatres (race tracks simulcast their races to facilities other than race tracks, typically a theatre or a restaurant/lounge setting). OTB can also occur without simulcasting, as wagering in small offices or street-corner facilities.

The commission has advocated a careful approach to OTB legislation, and has strongly urged that OTB be coupled with the promotion of live horse racing in the Commonwealth. Among the issues which deserve consideration are the type of betting premises to be licensed, identification of permissible owners of OTB facilities, location of regulatory oversight within the state, distribution of the takeout, conformance with the federal Interstate Horse Racing Act of 1978, integration of horse and dog racing in any plan, and phasing-in of that plan.

CABLE TELEVISION COMMISSION
(Community Antenna Television Commission)

MISSION

The Cable Television Commission regulates cable operators in 324 cities and towns, collects license fees, sets customer service standards, and provides technical assistance to municipal licensing authorities.

Federal law requires cable operators to have a license to provide cable service. All Massachusetts municipalities who have cable have only one licensee. The cable license includes all the services and facilities provided to residents of the town. While the municipality awards the initial and renewal license, all licensing activity must be conducted according to uniform state rules administered by the Commission. The commission also adjudicates appeals of local licensing decisions. It also is mandated by statute to represent the citizens of the Commonwealth on cable-related matters before the Federal Communications Commission.

BUDGET

9215-0001 COMMUNITY ANTENNA TELEVISION COMMISSION

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$358,884	$1,029,664	9
FY89	$350,000	$1,097,817	9
FY90	$325,097	$1,191,064	6
FY91	$286,788	$1,225,600	6

The commission's budget for FY'91 is $272,396. The commission's staff has been cut to six.

The commission generates substantial revenues through license fees levied on cable operators and based on subscriber count. In 1989, it collected $1,168,350 in license fees for the state. Oversight of license payments by the commission also ensures that municipalities receive their share of license fees, which in 1989 amounted to $730,219.

ACCOMPLISHMENTS

The commission has adopted important regulations governing customer service practices by cable operators. The regulations, which are a model for other states and the industry, require disclosure of rates, services, billing practices and equipment usage to subscribers and establish reasonable schedules and procedures for delinquency, disconnection, and rate and service changes. The commission also promulgated regulations to protect subscriber security deposits.

In response to a legislative initiative, in 1987, the Commission inaugurated the Municipal Assistance Program. Each year, this program provides approximately 40 municipalities with legal and technical assistance to redress the frequent imbalance in sophistication between local authorities and cable companies.

The commission has eased the transition to federal regulation imposed by the Cable Act of 1984. Subsequently, it has participated in rulemakings before the FCC and has raised significant questions of interpretation before the FCC.

CURRENT AND FUTURE ISSUES

In response to growing criticism of the cable industry, the U.S. Congress has moved to re-regulate the industry. The commission should continue to watch these developments closely and work with Massachusetts legislators to include protections for cable subscribers. The FCC is expected to continue refining its conditions for local rate regulation. In the event that local rate regulation is reinstated, the commission is mandated by statute to be the final arbiter of rates.

The commission has sought authority from the legislature to permit it to release copies of cable companies' financial statements to the public and municipal officials. It has identified several areas in which closer monitoring could result in benefits to subscribers, municipalities and the Commonwealth. However, additional resources are necessary to fully explore these areas.

The commission expects to issue rules updating and clarifying complaint forms and reporting requirements. An accurate complaint record is critical in evaluating a licensee's performance. Meanwhile, the number of consumer complaints coming into the commission has escalated over the past few years as cable has become more prevalent. The agency expects consumer complaints in this industry to continue to increase.

BOARD OF REGISTRATION IN MEDICINE

MISSION

The mission of the Board of Registration in Medicine is to ensure that only qualified physicians and acupuncturists are licensed to practice in Massachusetts, and to support an environment which maximizes the availability of high quality health care in the Commonwealth. The board consists of seven members: five physicians and two public members. It accomplishes its mission by setting licensing standards for the state's 22,000 licensed doctors and reviewing and approving or disapproving license applications; investigating complaints and taking appropriate disciplinary action; compiling and analyzing data and other reports from various sources about the quality of health care and individual issues of competence; and ensuring participation in patient care assessment programs.

BUDGET

9230-0150 BOARD OF REGISTRATION IN MEDICINE

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$1,938,926	$2,614,664	51
FY89	$2,137,229	$2,326,701	55
FY90	$2,079,523	$2,300,000	45
FY91	$1,777,220	$2,350,000	37

With the passage of the Medical Malpractice Act of 1986, the board received an infusion of funds and expanded its staff significantly to handle its new mandates. In FY'85, the board's appropriation was $491,130 and it employed a staff of ten. By FY'89, the agency's budget was $2,137,229 with 51 full time equivalent employees. Recent budget cuts have resulted in a budget for FY'91 of $1,777,220 with 37 FTEs.

ACCOMPLISHMENTS

Prior to 1986, the board operated with few resources. License information was maintained on index cards and the Board lacked authority to fully investigate and prosecute physician misconduct. Very few actions against doctors were taken.

Prompted by the rising incidence and cost of malpractice claims and a perceived connection between these trends and the Board of Medicine's failure to discipline physicians who delivered substandard care, the Malpractice Act gave the board power to obtain records and witnesses necessary to fully prove or disprove allegations contained in complaints. Since its passage, the board has computerized the licensing process and created a Data Repository Unit, which houses reports from facilities, physicians, courts and malpractice insurers. The act gave the board power to obtain records and witnesses necessary to fully prove or disprove allegations set forth in complaints to the Board. The board also acted to prioritize complaints.

The Malpractice Act also created a risk management division at the board. The Patient Care Assessment Unit now oversees implementation of patient care assessment regulations, which support the premise that prospective, preventive measures are necessary and effective in lowering the incidence of adverse medical events in the Commonwealth.

The board has more recently established a Chemically Dependent Physician Policy to promote self-reporting of chemical dependence which has not resulted in patient harm. It has also issued an extensive Prescription Practices Policy.

In 1987, the board established an Acupuncture Unit and promulgated regulations governing the licensure and discipline of acupuncturists in the Commonwealth.

CURRENT AND FUTURE ISSUES

Prior to July 1, 1990, the administrative hearings of disciplinary cases were heard primarily by members of the Legal Unit of the Board. On that date, legislation went into effect transferring the hearing officer function from the Legal Unit to the Division of Administrative Law Appeals. The board retains its authority to investigate complaints against doctors, as well as to determine and issue final disciplinary decisions. If this transfer is to be successful, the board must closely monitor the handling of these cases at DALA, especially with respect to timeliness of the hearings and procedural matters unique to board cases.

On September 1, 1990, the National Practitioner Data Bank began operation. The board's staff are currently gaining experience in the operation of the data bank.

The board works closely with the Massachusetts Medical Society on several matters. The Medical Society has assisted in revising board's biannual license renewal form, and has helped develop a physician census to assist in determining physician supply. The Medical Society is also active in implementing the board's Chemically Dependent Physician Policy.

The cutbacks in staff and resources make this an important time for the agency to examine and prioritize its responsibilities. This evaluation is currently underway.

DIVISION OF REGISTRATION

MISSION

The Division of Registration is mandated to protect the health and safety of the citizens of the Commonwealth. It licenses qualified professionals who provide services to consumers and ensures the integrity of these professions through the fair and consistent enforcement of state statutes, rules and regulations. There are 31 boards of registration within the division. A complete listing of the professions regulated by these boards is included at the end of this section.

BUDGET

9230-0001 DIVISION OF REGISTRATION

	FINAL BUDGET	REVENUE	# OF EMPLOYEES
FY88	$4,229,806	$11,181,260	120
FY89	$3,964,524	$10,037,260	120
FY90	$4,068,081	$18,005,448	110
FY91	$3,811,278	$15,304,647	108

The division's budget for FY'91 is $3,742,278 plus a retained revenue account of $94,789. The division generates several times its budget in license fees; in FY'90, revenues totalled $18,005,448. The division currently employs 108 individuals.

ACCOMPLISHMENTS

The division has made substantial progress in establishing standard and objective procedures for licensing professionals. For example, licensing exams for all the boards are now administered by outside test administration companies with only two exceptions. The division has also computerized the licensing process. Preprinted licenses are generated and mailed and licensees who fail to renew are sent delinquent notices automatically. A lockbox has been set up which handles input and deposit of checks twice daily.

The agency centralized two of its most important functions by establishing an Investigative Unit and a Legal Unit. Investigators are assigned to complaints in the order of priority and follow a uniform investigative process. A pool of attorneys is shared by all of the boards, generating economies of scale and maximizing expertise.

The division has encouraged cooperation between its boards and other state agencies. The Real Estate Board has worked with MCAD to include information on fair housing matters in renewals and to assist consumers who may be victims of housing discrimination. The Board of Electricians has worked with the Department of Public Safety to assure careful licensing of burglar alarm installers. The division has developed AIDS Guidelines applicable to all of its boards and has established a division wide policy on AIDS. The division, in conjunction with the Executive Office, has also convened task forces on chemical dependency and sexual misconduct.

Several new boards have been created by the legislature over the past few years, increasing the need for space and employee resources at the division. Also, a number of laws have been enacted which have affected various boards of registration and which have far-reaching effects on citizens of the Commonwealth. Examples of this legislation include acts regulating food store pharmacy departments, permitting use of diagnostic pharmaceutical agents by optometrists, establishing a nurse rehabilitation program, providing for reciprocity of Canadian nurse licensure, and requiring identification of dentures.

CURRENT AND FUTURE ISSUES

The division's greatest challenge is to provide services for a larger number of boards and more licensees with fewer resources while remaining responsive to consumers. Licensees expect services for their professional registration fees. Consumers expect oversight of a profession by the board of registration as well as a means to redress a grievance against a licensed professional.

The division is devising a plan to implement the National Practitioner Data Bank established by federal law in 1986. It is also working with the Department of Public Health to implement triplicate prescription regulations.

Substance abuse has become a growing problem for both licensees and consumers. A rehabilitation program similar to that initiated by the Board of Nursing should be implemented in several other boards.

A recent U.S. Court of Appeals decision has brought into question the Federal Trade Commission's jurisdiction over state licensing boards. FTC preliminary investigations of board regulations governing the parameters of licensee advertising and other business arrangements may be affected.

The Board of Optometry has challenged the new practice of the sale of replacement contact lenses by mail through pharmacies. The Division's Legal Unit has taken the position that neither state nor federal law prohibits this practice.

Federal legislation mandating licensure of real estate appraisers was an outgrowth of the S&L collapse. EOCABR has submitted legislation, which must be enacted and approved by a federal committee by July 1, 1991. The division should closely monitor these efforts.

BOARDS OF REGISTRATION

Allied Health Professionals
Allied Mental Health and Human Services Professions
Architects
Barbers
Chiropractors
Cosmetologists
Dentistry
Dispensing Opticians
Drinking Water Supply Facilities (Operators of)
Electricians
Electrologists
Embalmers and Funeral Directors
Professional Engineers and Land Surveyors
Health Officers
Landscape Architects
Nurses
Nursing Home Administrators
Optometrists
Pharmacists
Plumbers and Gas Fitters
Podiatrists
Physician Assistants
Psychologists
Public Accountancy
Radio and Television Technicians
Real Estate Brokers and Salesmen
Respiratory Care Providers
Sanitarians
Social Workers
Speech-Language Pathologists and Audiologists
Veterinarians

SPENDING BY APPROPRIATION AS OF NOVEMBER 11, 1990

ACCOUNT NAME	APPROPRIATION #	AMOUNT SPENT	BALANCE REMAINING
EXECUTIVE OFFICE	9200-0100	$229,068	$332,342
LEMON LAW	9200-0150	$164,542	$95,402
RACING	9210-0001	$1,241,269	$852,862
ABCC	9212-0001	$442,530	$524,868
CATV	9215-0001	$93,088	$183,983
STANDARDS	9218-0100	$270,040	$345,345
BANKS	9221-1000	$3,097,586	$4,063,771
INSURANCE	9222-0100	$2,515,302	$2,726,490
BOARD OF APPEAL	9222-0199	$188,745	$236,858
AUTO DAMAGE	9222-0101	$1,000	$49,000
REGISTRATION	9230-0001	$1,674,019	$2,068,259
MEDICINE	9230-0150	$987,148	$790,072
DPU	9270-0001	$1,375,982	$1,818,946
TRANSPORTATION	9272-0001	$344,847	$501,674
ENERGY	9275-0003	$357,985	$465,059
RCS	9275-0004	$73,263	$96,737
EFSC	9275-0500	$256,438	$312,362

The chart summarizes the status of expenditures as of November 11, 1990 for EOCABR agency accounts. Spending in all accounts is at or below the level projected in spending plans filed earlier this fiscal year with the Executive Office of Administration and Finance.

APPENDIX A

Commonwealth of Massachusetts
Executive Office of Consumer Affairs
and Business Regulation
One Ashburton Place
Boston, Massachusetts 02108

CHAEL S. DUKAKIS
GOVERNOR

ARY ANN WALSH
SECRETARY

617 / 727-7755

SUMMARY OF THE

EXECUTIVE OFFICE OF CONSUMER AFFAIRS AND

BUSINESS REGULATION'S 1991 LEGISLATION

EXECUTIVE OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

1. AN ACT REQUIRING THE CORRECT PRICING OF CERTAIN CONSUMER GOODS.

This legislation extends the supermarket item pricing law to other retailers. The bill will clarify a seller's responsibilities and set up a proven enforcement plan to better insure that consumers are not overcharged.

2. AN ACT REGULATING ADVERTISEMENTS AND SOLICITATIONS FOR TIME-SHARES.

This legislation amends the time-sharing law to correct advertising and promotional abuses that currently exist in the time-share industry.

3. AN ACT TO PREVENT DECEPTIVE MAIL OFFERS.

This bill would ban envelopes which appear to be sent by the government but which are really sales solicitations. It would also require that simulated checks in mailings contain the word "VOID" in large type on the signature line to prevent accidental cashing of such checks.

4. AN ACT TO PROTECT CONSUMERS IN AUTO REPAIR TRANSACTIONS. (HOSTAGE CARS)

This bill would allow consumers to remove their vehicle from a repair shop after paying the originally agreed upon contract amount, in cases where the shop does more repairs than authorized, or changes more than authorized.

5. AN ACT RELATIVE TO THE DISCLOSURE OF A CONSUMER'S LEMON LAW RIGHTS.

This bill would authorize the Secretary of Consumer Affairs to levy a $100 fine for each required lemon law sticker or notice missing from new and used car dealers' vehicles.

6.

aut
adv
fin

7.

in
ava
mer
re
of
se

8.

ti
th

9.

st
st
wo
c
d
n
w
c
t
t
c

a
c
c
l

6. AN ACT FURTHER PROTECTING MASSACHUSETTS CONSUMERS. (ADVERTISING)

This bill would give the Secretary of Consumer Affairs the authority to promulgate regulations further defining illegal advertising practices under Chapter 266, and well as providing for fines of $100.

7. AN ACT TO PROTECT CONSUMERS' DEPOSITS IN SALES TRANSACTIONS.

This bill would limit the amount a seller can require as a deposit in advance in connection with the sale of merchandise which is not available for immediate delivery. In the case of non-delivery of the merchandise, the consumer may cancel the sale and receive a full refund. The bill also provides that the deposit remains the property of the buyer and is thus recoverable in full in the case of the seller's bankruptcy.

8. AN ACT TO PROTECT CONSUMER REFUNDS. (TICKETS)

This bill requires ticket sellers to refund the full price of tickets sold, including any services charges, if the event for which the ticket was purchased is cancelled or postponed.

9. AN ACT PROTECTING HOMEOWNERS.

Currently, only "home-construction supervisors," those who oversee structural work, must be licensed by the state. The scope of the state's authority does not extend to contract performance, quality of work or other consumer protection issues. The bill would require contractors who perform non-structural improvements such as roofing, driveway paving, siding, installing septic systems, etc. -- to pay a nominal fee and register with the state. Registration requirements would allow the homeowner to locate and take action against a contractor in the future if he should have problems with the work of the contractor. In addition, the threat of registration revocation by the state would encourage contractors to fulfill the terms of a contract with a homeowner in a timely and professional manner.

The bill would require a written contract between a contractor and a homeowner for the performance of the job to be done. This would clarify and define terms of the agreement between the parties including consideration, schedule of performance and parameters of the work, and help enforce them.

The bill would allow both consumers and contractors to file for a hearing to resolve disputes through an arbitration program set up by the Executive Office of Consumer Affairs and Business Regulation. If an arbitrator found for the consumer, the contractor would either have to pay the damages or appeal the arbitrator's decision within 21 days.

The bill would establish a state-managed Guaranty Fund to help the consumer collect the damages in a speedy manner. If the contractor failed to pay the damages or failed to file an appeal, the contractor's license or registration would automatically be revoked, and the consumer would be compensated for up to $10,000 of his or her losses from the Guaranty Fund. The Fund would be managed by the state. It would be financed by a small fee paid by contractors at the time they are initially registered by the state. Contractors could not be compensated from the Fund, but they could use the arbitrator's award as prima facie evidenced in court of law.

10. **AN ACT REGULATING CERTAIN PREMIUM TELEPHONE SERVICES.**

This bill would require that companies offering "900" number service and similar services clearly disclose the price for such calls in all advertising. The bill would also establish a "free period" at the beginning of a call where the consumer would be given seven seconds after the price is disclosed to hang up the telephone to avoid any charges.

11. **AN ACT TO PREVENT DECEPTIVE PRICING.**

This bill would require sellers to have substantiation in its possession prior to making claims such as "lowest prices in town." The bill would also explicitly permit other price characterizations to be used without the need for substantiation.

12. **AN ACT RELATIVE TO THE TESTING OF DRINKING WATER.**

This bill would prohibit water treatment device salespeople from in-home testing a consumer's tap water for health problems. Such testing would have to be conducted by independent laboratories certified by the Department of Environmental Protection.

13. **AN ACT TO PROMOTE FAIR TELEPHONE SOLICITATIONS.**

This bill would require telemarketers to obtain a consumer's signature on an explicit, written contract before the sale becomes legally binding, and before the consumer's credit card can be charged and the merchandise shipped. Merchandise received prior to the consumer's proper authorization would be deemed to be a gift.

COMMUNITY ANTENNA TELEVISION COMMISSION

14. **AN ACT CONCERNING TELEVISION CONSUMER COMPLAINTS. (800 LINE)**

This bill would require the Commission to establish a toll-free telephone number to receive consumer complaints. The cost of the service, including staff salaries, would be paid through an assessment on cable operators. Thus, there would be no cost to the Commission.

The bill has three main purposes:

limited
monitor
Consumer
reference
consumer
Adjustment
Manual

on
identification
of

the
consumer
consumer
and

1

Consumer
Manual
of
the
Electronic
Consumer
Sales
Kit

a. This bill would provide consumers across the state with a direct link to the Commission. This would enable the commission to assist more consumers with complaints and inquiries about cable service. The Commission has found that subscribers outside of the Boston area are reluctant to incur the cost of a toll call to resolve their complaints. This toll-free service, then, would put consumers in North Adams and Pittsfield on the same footing as those in Brookline and Malden.

b. This bill would provide the Commission with more accurate data on the number and type of complaints by consumers, and would help in identifying larger areas of concern more properly resolved through official actions such as rulemakings and adjudications.

c. The funding mechanism, an assessment against operators based on the number of subscribers served, shifts the cost of resolving complaints to the operators, who are responsible for generating the complaints. This cost-shifting is consistent with other statutory assessment schemes.

15. AN ACT CONCERNING CIVIL PENALTIES FOR CABLE TELEVISION OPERATORS.

This bill would amend M.G.L. chapter 166A, section 18 to allow the Commission to impose civil penalties on cable operators who violate M.G.L. chapter 166A or any of the Commission's rules, regulations and orders adopted under this chapter. Under the current section 18, only the courts may impose criminal, but not civil, penalties on operators for willful violations of M.G.L. chapter 166A. The Commission currently may suspend or revoke licenses under M.G.L., chapter 166A, section 14. By allowing for the imposition of civil penalties, the bill would provide the Commission with a direct and less drastic method of enforcing M.G.L. chapter 166A.

16. AN ACT TO PROVIDE LOCAL OFFICIALS WITH CABLE OPERATOR REVENUE INFORMATION.

This bill requires cable operators to submit revenue information to both the Commission and the local issuing authority. A 1979 amendment to the statute deleted filing of the information with local officials. This bill would once again allow local officials to have access to such information.

REGISTRATION IN MEDICINE

17. AN ACT RELATIVE TO THE BOARD OF REGISTRATION IN MEDICINE. (TECHNICAL CORRECTIONS)

This technical amendment assures that M.G.L. c. 112, s. 61-63 would still apply to the Board. Restoring application of section 63 is important, since it requires the professional boards to pursue disciplinary cases notwithstanding the pendency of criminal charges. The Board is an independent agency through the 1986 Medical Malpractice Reform Act, c. 351, s. 10.

aut
18
7)
cl
li
di
th
Bo
sa
ca
si
sa
M
an
w
a
p
1

This legislation would also clarify the Board's disciplinary authority over interns and residents.

18. **AN ACT RELATIVE TO THE BOARD OF REGISTRATION IN MEDICINE COMMITTEE ON ACUPUNTURE.**

This bill would give the Committee on Acupuncture the authority to: 1) levy fines against an acupuncture licensee of up to $10,000 for each classification violation of the law or regulations, 2) require a licensee to enter remedial training in acupuncture, or 3) otherwise discipline as licensee.

This bill would make the Committee on Acupuncture's authority in the area of disciplinary actions consistent with the authority of the Board of Registration in Medicine. The Committee and Board share the same investigators, prosecutors, and hearing officers, and in many cases handle complaints of a similar nature. As acupuncturists are similar to physicians in that they provide health care to patients, the same sanctions be should be available.

The authority to levy fines may be a greater deterrent to misconduct than the authority to censure or reprimand. Also, the authority to order remedial training in acupuncture will be a useful way to protect the public from future harm in the case where an acupuncturist evidences a lack in ability or knowledge.

This bill will fill gaps in the current law, give the Committee greater flexibility to tailor disciplinary sanctions to particular circumstances, and provide useful means to the Committee to enhance public safety.

19. AN ACT TO ALLOW FOR AN EXEMPTION FROM REPORTING CERTAIN MINOR SANCTIONS TO A NATIONAL DISCIPLINARY DATA REPORTING SYSTEM ON PHYSICIANS.

The Board of Registration in Medicine is authorized to impose a range of sanctions, from license revocation and assessment of a $10,000 fine, to a simple reprimand or requirement for continuing medical education. Sanctions are determined based upon the seriousness of the offense. However, G.L. c. 112, sec. 2 requires that every sanction, no matter how minor, must be reported to any national data reporting system.

The Board believes that there are instances in which a minor sanction is warranted, but in which the additional burden of being reported to a national data bank can be perceived as being a greater burden than the sanction.

This bill provides the Board with authority to determine that there is a class a minor violations, such as failure to provide medical records in a timely fashion, which might warrant a small sanction but which, from the standpoint of protecting the public health, welfare and safety, do not warrant reporting to a national data reporting system.

20.

min
wil
goo
per
is
and
the
fir

21

re
Co
ef
ma

22

th
ju
as

2

r
i
a
h

t
t

t
r

DIVISION OF STANDARDS

20. **AN ACT AUTHORIZING THE DIVISION OF STANDARDS TO ISSUE ADMINISTRATIVE FINES.**

This legislation will establish reasonable administrative fines for minor weights and measures violations. The administration fine concept will support the consumers' right to receive net weight on all packaged goods sold by weight or measure, while imposing a realistic monetary penalty on those who ignore this basic legal requirement. The Division is assessing administrative fines presently under the Item Pricing Law and we have observed a marked increase in price accuracy as a result of these fines. We expect the same positive results if the administrative fine concept is applied to weights and measures violations.

21. **AN ACT RELATIVE TO ANTIFREEZE SALES.**

This legislation eliminates the Division of Standards' responsibility to test samples of anti-freeze before it is sold in the Commonwealth. The Division has found that it far more effective and efficient to test the actual products that are being sold in the marketplace.

STATE RACING COMMISSION

22. AN ACT REGULATING THE CONDUCT OF HORSE AND DOG RACING. (APPOINTMENT OF STEWARDS)

This legislation would authorize the Commission to appoint two of the three stewards (judges) at each racetrack and give the Commission jurisdiction over persons who are closely involved with the important aspects of racing.

23. AN ACT FURTHER REGULATING THE CONDUCT OF DOG RACING.

This bill authorizes the Racing Commission to adopt regulations requiring kennels and other licensees to provide the commission with information and other data regarding the disposition of racing animals. It also requires that these animals be disposed of in a humane manner.

This bill establishes a greyhound humane disposition and adoption trust fund to reimburse agencies for costs incurred for humane disposition including euthanasia or adoption.

The humane disposition standards contained in this bill also apply to Massachusetts-bred greyhounds who have been bred for racing but never qualify for pari-mutuel races.

24. **AN ACT FURTHER REGULATING THE CONDUCT OF RACING. (COMMISSION LIABILITY)**

This bill clarifies that the state racing commissioners serve in their official rather than personal capacities as trustees on the Running Horse, Harness Horse, and Dog Racing Capital Improvements and Promotional Trust Funds.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

25. **AN ACT RELATIVE TO REAPPEALS TO THE ALCOHOLIC BEVERAGES CONTROL COMMISSION.**

The Alcoholic Beverages Control Commission is authorized to hear reappeals of decisions of local licensing authorities. As currently drafted, section 67 of chapter 138 authorizes the Commission to hear reappeals regarding license modifications, cancellations, revocations, forfeitures, and nonrenewals, but not license suspensions. This bill would correct that oversight.

26. **AN ACT TO ESTABLISH A NEW CATEGORY OF ALCOHOLIC BEVERAGE LICENSE KNOWN AS "BREW PUB.".**

This bill establishes a new category of alcoholic beverage license known as the "Brew Pub" license. A holder of a brew pub license will be permitted to operate as a brewery as well as selling alcoholic beverages, malt beverages and wine for consumption on their premises.

DEPARTMENT OF PUBLIC UTILITIES

27. **AN ACT RELATING TO THE PERSONNEL OF THE FUEL CHARGE MONITORING BUREAU OF THE DEPARTMENT OF PUBLIC UTILITIES.**

This legislation would eliminate the job titles specified in the legislation establishing the bureau with the exception of director, and it would establish the position of assistant director. It would provide the DPU with the management flexibility to appropriately staff the bureau.

28. **AN ACT RELATIVE TO STATE COMPLIANCE WITH FEDERAL CHANGES IN THE NATURAL GAS PIPELINE SAFETY ACT.**

The Commonwealth by passage of 777, A1985 though the Pipeline Safety Division of the Department of Public Utilities ("DPU") became the agent of the Federal Department of Transportation, Office of Pipeline Safety ("DOT") for the purpose of overseeing the enforcement of the Natural Gas Pipeline Safety Act ("NGPSA"). The DPU is reimbursed by DOT for its efforts in seeing to the enforcement of the NGPSA. In 1988 the Feds revised the civil penalties that may be levied against gas pipeline operators that were found to have violated federal safety regulations for pipelines and LNG plants. In order for the DPU

to continue to act as the DOT agent overseeing pipeline safety in Massachusetts the corresponding changes, i.e. increases in the civil fines, must be made in the corresponding Massachusetts statutes.

29. **AN ACT TO AUTHORIZING THE DEPARTMENT OF PUBLIC UTILITIES TO ASSESS GAS COMPANIES FOR THE COST OF MONITORING FEDERAL INITIATIVES CONCERNING THE TRANSPORTATION, AVAILABILITY AND COST OF NATURAL GAS.**

Authorizes a second one-time $250,000 assessment of the Massachusetts gas companies (the first was Chapter 616, A1986) to allow the DPU to continue to monitor and react to changes in the regulation of the natural gas industry both regionally and nationally (these changes continue to occur at the federal level). Massachusetts is at the end of the interstate pipelines and there are only two interstate pipelines which serve Massachusetts, therefore Massachusetts is vulnerable to gas supply problems, gas pricing problems and gas transportation problems. In addition two new interstate natural gas pipelines are in the process of obtaining the necessary approvals to locate in New England and provide access to Canadian gas supplies. This bill would give the DPU the additional funds to allow it to monitor federal changes, intervene in federal cases, protect its interest (as is being done by other states such as New York, New Jersey, Pennsylvania, Vermont, Rhode Island and Connecticut) and determine if state regulations should be adopted or changed in response.

30. AN ACT AUTHORIZING THE DEPARTMENT OF PUBLIC UTILITIES TO DETERMINE GAS METER INSPECTOR METHODOLOGY.

This legislation would allow the Department to determine the testing methodology for gas meters which may include simply witnessing the testing and sealing by gas company personnel or some other method determined by the Department to provide for proper testing and/or sampling of the gas meters.

31. AN ACT RELATIVE TO THE DEPARTMENT OF PUBLIC UTILITIES' RAILWAY BRIDGE INSPECTIONS.

This bill would transfer the statutory responsibility for railway bridge inspections from the Department of Public Utilities to the Department of Public Works.

32. AN ACT RELATIVE TO THE ASSESSMENT OF TELEPHONE COMPANIES.

This bill would assess all major telephone companies $200,000 per year for three years (starting this fiscal year and each of the next two years) to help offset the cost to the Department of the regulatory restructuring that is occurring to reflect changes in the telecommunications industry. New England Telephone would pay approximately 94% of the cost, with the smaller portions paid by other companies such as AT&T (4%), Sprint (0.4%) and MCI (1%).

bi
ma

of
Do
pu
pu
pa
mu
fl
b
s
s
p
c

3

t
a
e

33. **AN ACT RELATIVE TO CONTRACTS FOR THE PURCHASE OF ENERGY MANAGEMENT SERVICES (CITIES AND TOWNS EXEMPTION FROM PUBLIC BIDDING).**

The purpose of this bill to to clarify the state's competitive bidding laws as they relate to contracts by public agencies for energy management services.

The public buildings of the commonwealth consume tremendous amounts of energy for heating, lighting, ventilation, and air conditioning. Dollars that are spent on wasted energy for these buildings could be put to far better uses if public agencies -- cities, towns, counties, public authorities and the commonwealth itself -- were encouraged to perform energy audits, install appropriate energy conservation measures, and institute sound ongoing energy conservation practices. This legislation provides a clarification of the state's competitive bidding laws that will enable public agencies to take these energy saving steps at no up-front capital cost to the public agency. At the same time, the legislation recognizes the intent of the bidding laws by providing for a completely open and competitive process for selecting contractors.

34. AN ACT TO AUTHORIZE THE GOVERNOR TO RESPOND TO ENERGY SUPPLY DISRUPTIONS.

This bill makes clarifying amendments to M.G.L. c. 25A to ensure that the Governor will have adequate statutory authority to respond to an energy emergency in the Commonwealth resulting from a disruption in energy or fuel supplies.

35. AN ACT REDUCING THE GREENHOUSE EFFECT BY PROMOTING CLEAN AND EFFICIENT ENERGY RESOURCES.

The Greenhouse Bill would help save consumers millions of dollars by promoting cost-effective energy efficiency measures that would cut carbon dioxide emissions significantly, thus reducing the "greenhouse effect." Additionally, it would help ease New England's electricity supply crisis, which already threatens the regional economy.

36. AN ACT PERTAINING TO THE REPORTING OF FUEL INVENTORY, SALES, DELIVERY AND PRICE INFORMATION.

This bill would amend chapter 25A of the General Laws to expand DOER's authority to collect price, inventory, fuel delivery and sales data from natural gas, coal, and propane companies, in addition to wholesalers and resellers of petroleum products, doing business in the Commonwealth. In addition, the bill expands DOER's authority to require retail and wholesale dealers of gasoline and sellers of home heating oil and propane to inform DOER, upon request, of their prices. Under the current law (G.L. c.25A, s.7), DOER is authorized to collect "inventory and product delivery data and other information which is

specifically necessary and material regarding petroleum products available for supply within the commonwealth..." There is no authority in the current statute to collect price information, and DOER currently does this through the voluntary cooperation of certain dealers who could refuse to participate. The bill would protect the confidentiality of inventory, product delivery, price, and sales data, in accordance with the provisions of chapter 25A, and would allow only aggregates of such data to be published.

DIVISION OF REGISTRATION

37. **AN ACT RELATIVE TO THE BOARD OF REGISTRATION WITHIN THE DIVISION OF REGISTRATION.**

The provisions of this act are intended to bring uniformity to the various sections of chapters 13 and 112, and to allow all boards within the division of registration to operate, wherever appropriate, under similar authority and guidelines.

38. **AN ACT RELATIVE TO THE BOARD OF REGISTRATION OF REAL ESTATE BROKERS AND SALESMEN (PRE-LICENSING REQUIREMENTS).**

This legislation would bring the educational requirements applying to licensees up to national average standards. The increased educational requirements will facilitate reciprocal licensure of Massachusetts brokers and salesmen by other states.

39. **AN ACT RELATIVE TO EXAMINATIONS BY THE BOARD OF REGISTRATION OF COSMETOLOGY.**

Presently the Board of Registration in Cosmetology is required to notify an examination applicant three times of examination times and places. This is an expensive and unnecessary burden on the board.

40. **AN ACT RELATING TO THE BOARD OF CERTIFICATION OF OPERATORS OF DRINKING WATER SUPPLY FACILITIES.**

In 1984 the Board of Certification of Operators of Wastewater Treatment Facilities was transferred from the Division of Registration to the Department of Environmental Protection (Formerly DEQE). That office has the technical expertise and responsibility for environmental matters. Therefore it is much more logical for the Board of Certification of Operators of Drinking Water Supply Facilities, currently under the Division of Registration, to also be transferred to DEP.

41. **AN ACT RELATIVE TO EXAMINATIONS OF THE BOARD OF REGISTRATION OF SOCIAL WORKERS.**

This bill will effectively reduce the number of examinations per year from four to two. This test is administered nationally at the same time in every state currently licensing social workers. Recently the American Association of State Social Worker Boards negotiated a new

contract with the testing company. The result of the negotiations is a reduction of the number of times the national examination will be administered. It is most important that Massachusetts comply with the National standards of licensing. It is by these standards that Massachusetts can both allow and enjoy reciprocity with any state currently licensing social workers. In addition, the use of a nationally administered examination allows the Board to ensure competency at no cost to the Commonwealth of Massachusetts.

42. **AN ACT RELATIVE TO THE TERMS OF THE BOARD MEMBERS OF THE BOARD OF REGISTRATION OF ALLIED HEALTH PROFESSIONS.**

There are 11 members of the Board, currently all of the terms expire on the same date. This makes it very difficult to keep the Board operating without interruption. Sine each member may serve for no more than two terms it is probable that all of the sitting board members are first time board members (this has happened and in all likelihood will happen every six years) and must "reinvest the wheel." If the terms are staggered, as all of the other boards of registration, there will always be experienced board members to make sure the transition is smooth and the board can continue to operate without interruption.

43. AN ACT RELATIVE TO MEDICAL EXAMINATION REQUIREMENTS BY THE BOARD OF REGISTRATION OF BARBERS.

Currently the board requires a certificate from a physician that a barber or candidate to become a barber is free of infectious and contagious diseases. In addition if a barber is found to have epilepsy or a contagious or infectious disease or he has imparted such a diseases his license may be revoked. Not only do these provisions seem to infringe on the constitutional rights of a barber or an applicant but they are virtually impossible to enforce. Recently the Board has adopted regulations to protect both the licensure and the consumer against infectious diseases. A provision that allows the state to remove the professional license of a person afflicted with epilepsy is clearly discriminatory.

44. AN ACT RELATIVE TO THE MEDICAL EXAMINATIONS REQUIRED BY THE BOARD OF REGISTRATION IN COSMETOLOGY.

Currently the statute requires a physicians certificate stating that an applicant for original issuance or an applicant for renewal of a license is free from contagious or infectious diseases. This is very burdensome and costly to the licensee since a certificate must provide to the Board every 12 months. The Board feels this is unnecessary. The statute gives the Board rule-making authority with the approval of the Department of Public Health, specifically to protect the public from such diseases.

45. **AN ACT RELATIVE TO PERMITS ISSUED BY THE BOARD OF REGISTRATION IN VETERINARY MEDICINE.**

The 1988 amendment to section 56A of chapter 112 allows candidates who fail the required examination to continue to practice veterinary medicine. This was never the intent of the Board. The Board's intention when filing this bill was to allow foreign school graduates to obtain the required one year of supervised practice in the Commonwealth prior to taking the examination. Due to an oversight the 1988 amendment changed both the first and second paragraph of said section. This bill will return the first paragraph to it's original form.

46. **AN ACT REGARDING THE BOARD OF ALLIED MENTAL HEALTH AND HUMAN SERVICES PROFESSIONS.**

This bill extends the grandfather period for licensure of allied mental health and human service professionals from March 1, 1989 to March 1, 1990. This amendment is necessary because the board, which was created by Chapter 521 of the Acts of 1987, has not been funded. This bill also makes several technical corrections to the 1987 act.

47. **AN ACT PROVIDING FOR THE CERTIFICATION OF REAL ESTATE APPRAISERS.**

This legislation will establish a board to house real estate appraisers as required by Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

DIVISION OF INSURANCE

48. **AN ACT RELATIVE TO INSURANCE INFORMATION AND PRIVACY PROTECTION.**

Massachusetts insurance consumers are currently given no protection or controls over personal information which insurance companies, agents and insurance support organizations obtain in the course of the insurance relationship. The DOI therefore recommends the adoption of this modified version of the NAIC Model Act on Insurance Information and Privacy Protection. This Act requires insurers to notify consumers of their information collection and disclosure practices when consumers apply for insurance. It gives consumers access to information, and it sets forth a mechanism for the correction, amendment and deletion of recorded personal information. It also sets forth conditions and limitations for the disclosure of information by insurers, agents and insurance support organizations.

The protections provided by this proposal are similar to the protections offered to credit consumers under the Fair Credit Reporting Act. Legislation addressing this issue has been enacted in a least eleven states.

49. **AN ACT RELATING TO HEALTH MAINTENANCE ORGANIZATIONS.**

The law governing health maintenance organizations, M.G.L. c. 176G, does not expressly provide for rehabilitation or liquidation proceedings in the event of an HMO impairment or insolvency. This legislation would correct that oversight by making HMOs subject to the Uniform Insurers Liquidation Act, M.G.L. c. 175, s. 180A-180L.

50. **AN ACT RELATIVE TO MOTOR VEHICLE INSURANCE (CAR).**

The Division recommends the adoption of legislation which is designed to implement the recommendation of the Commissioner of Insurance in his recent report on the automobile residual market mechanism, known as Commonwealth Automobile Reinsurers (CAR). TheCommissioner's report was prepared and filed with the General Court in accordance with section 66 of Chapter 273 of the Acts of 1988. The recommendations are designed to revise the structure and governance of CAR, encourage the depopulation of CAR and fund automobile insurance regulatory efforts of the Division of Insurance by direct assessment on the insurance industry.

Two consumer representatives would be added to the Governing Committee, thereby expanding the Governing Committee from thirteen members to fifteen members. This would ensure needed public representation in an organization which affects every motorist in the Commonwealth. In addition, the terms of CAR's Governing Committee members would be reduced from six years to four years to allow for potentially increased participation, by more companies and agencies, on the Governing Committee. Finally, an automobile rating unit would be created within the State Rating Bureau of the Division of Insurance in order to carry out the critical function of monitoring the automobile industry and CAR. Such a unit would be funded directly by assessment on the industry and would therefore not adversely affect the Commonwealth's revenues.

51. **AN ACT RELATING TO THE REGULATION OF RISK RETENTION GROUPS AND PURCHASING GROUPS.**

The Division is proposing the adoption of the NAIC Model Act on state regulation of risk retention groups and risk purchasing groups. These groups are the product of a federal law which allows liability insurers which are licensed in a single state to operate in other states without formal licensing or admission. The NAIC Act would give the Division of Insurance the authority to regulate these entities to the full extent allowed under federal law.

In addition to its other features, this legislation is a revenue-enhancing measure. Under federal law, states are entitled to collect taxes from risk retention groups and risk purchasing groups which do business within their boundaries. However, the Department of Revenue for the Commonwealth has indicated that before it can collect these revenues, the Department must have specific legislative authority. This bill provides such authority.

In the past, this bill was supported by the Administration, the Alliance of American Insurers, the Independent Insurance Agents of Massachusetts, Professional Insurance Agents of New England and the American Insurance Association. The bill has no opponents.

52. **AN ACT FURTHER REGULATING SPECIAL INSURANCE BROKERS.**

This bill would provide for quarterly filing of the records and the four percent premium tax by special insurance brokers, also known as surplus lines brokers. Such quarterly filing would enchance the ability of the Division to track these agents and their activities. The bill further requires that special insurance brokers be licensed as brokers and that they be subject to the penalties and fines set forth under M.G.L. 176D for violations of law.

53. **AN ACT RELATING TO THE ENFORCEMENT OF THE INSURANCE LAWS (CEASE AND DESIST).**

This legislation would make explicit the Commissioner's power to issue cease and desist orders against insurers and others for violations of the insurance laws; provides for issuance of temporary cease and desist orders if the Commissioner determines the public interest will be irreparably harmed by delay in issuing the order; provides for imposition of a civil forfeiture of $10,000 for the violation of any provision of the insurance laws; and helps to ensure expeditious and effective enforcement of the insurance laws.

The proposal is modeled after legislation enacted by the General Court in 1980 authorizing the issuance of cease and desist orders under the Massachusetts Uniform Securities Act, codified as M.G.L. c. 110A, s. 407A. A similar provision was added to the Massachusetts Corporate Take-Over Statute, M.G.L. c. 100C, in 1981.

54. **AN ACT FURTHER RESTRICTING DISCRIMINATION BY INSURERS AGAINST THE BLIND, PHYSICALLY IMPAIRED AND MENTALLY RETARDED.**

This legislation would amend the insurance laws to strengthen the protection against discrimination afforded blind, physically impaired and mentally retarded individuals and provides a definition of physical or mental impairment as used by the Massachusetts Commission Against Discrimination.

Sec. 1 subdivision 1 is based on a revised NAIC model regulation prohibiting discrimination against the blind.

Sec. 1 subdivision 2 has new language adopted from the "A.B.A." publication, Prohibiting Discrimination Against Developmentally Disabled Persons; thereby providing a definite standard for the use by insurers, insureds or applicants for insurance.

Sec. 2 makes it clear that a violation of the laws barring discrimination is an unfair trade practice.

Sec. 3 of the bill, which was added by the Committee on Insurance in the version passed out of that Committee in the 1986 legislative session, amends Chapter 176D to further clarify the insurers' obligations under the NAIC model.

In the past, this bill has received the support of the National Federation of the Blind of Massachusetts, the Massachusetts Rehabilitation Commission, the Massachusetts Developmental Disabilities Council, the Massachusetts Down Syndrome Congress, former Attorney General Bellotti, and the Developmental Disabilities Law Center.

55. **AN ACT RELATIVE TO CONFIDENTIALITY PROTECTIONS.**

The Commissioner of Insurance has oversight authority over the financial condition of domestic companies in order to ensure the financial solvency of those companies. However, information submitted to or obtained by the Commissioner in the course of an audit, examination or other inspection may be considered to be public records despite the fact that the untimely disclosure of sensitive information could potentially cause the financial demise of an insurer or HMO, which otherwise would have survived.

This bill would mandate that the information submitted or obtained during the course of an investigation, audit or other inspection would be confidential and open only to the commissioner, his examiners and assistants. In addition, the bill would provide that the report resulting from the audit, examination or other inspection on behalf of the commissioner would be a public record.

56. **AN ACT RELATIVE TO REINSURANCE.**

Chapter 86 of the Acts of 1987 expanded reinsurance credit standards for life companies. This legislation would extend the 1987 law to property and casualty companies.

57. **AN ACT RELATIVE TO MINIMUM REQUIREMENTS FOR INSURANCE COMPANIES.**

This bill would increase the minimum capitalization requirements for companies formed or admitted to transact insurance in Massachusetts.

58. **AN ACT RELATIVE TO MOTOR VEHICLE INSURANCE (ADALB).**

This legislation would increase the duration of the certificates of registration issued annually by the Auto Damage Appraiser Licensing Board from one year to two years. In addition, the bill would require that the certificates be issued on a staggered basis instead of being issued with an effective date of July first. Finally, the bill would grant the Commissioner of Insurance approval authority over the Board regulations.

DIVISION OF BANKS

1. **AN ACT RELATIVE TO THE LICENSING AND EXAMINATION OF CERTAIN MORTGAGE LENDERS AND BROKERS.**

The Division of Banks is charged with the enforcement of a number of consumer protection statutes related to the granting of credit. There currently exists in the Commonwealth a rapidly growing but unregulated industry providing a significant share of the mortgage lending funds to our citizens.

This legislation seeks authority for this Division to license and examine companies which make five or more first mortgage loans on residential real property within a twelve-month period. The provisions of the legislation are substantially similar to statutes governing other credit grantors which the Legislature has chosen to license and examine through this Division. Banks, licensed lenders, insurance companies and certain other entities would be exempt from this law.

2. **AN ACT RELATIVE TO CERTAIN AGGREGATE LOAN LIMITATIONS APPLICABLE TO A BANK OR CREDIT UNION.**

In order to promote safety and soundness by preventing a concentration of assets, a bank is generally restricted in its involvement with any one entity to a maximum limit of 20 percent of the bank's capital. The existing law governing savings banks, co-operative banks and trust companies exempts most mortgage loans from being calculated against the 20-percent limit.

This legislation would seek to reduce that broad exemption by providing that only a loan on the one- to four-family owner-occupied property of the borrower would be exempt from the calculation of that aggregate limitation, providing a grandfather clause in which the two percent of deposits authority is contained for both stock corporations and thrift institutions; sections 3 and 5 of this legislation seek to technically correct the cite of an aggregate investment limitation on certain bank stocks; and section 3 deletes the provision from the loan statute while section 5 properly inserts it into the investment law.

3. **AN ACT RELATIVE TO CERTAIN ACTIONS OF THE BOARD OF BANK INCORPORATION.**

Currently, statute allows the Commissioner of Banks to appoint the FDIC as liquidating agent of a state-chartered bank which it insures. In conjunction, the Board of Bank Incorporation is authorized to take certain actions under law without regard to notice of hearing requirements in order to assist in the resolution of such a situation. Section 1 seeks to update this statute to recognize the existing federal insurance coverage and the existence of federally-chartered institutions in the Commonwealth. Accordingly, the law is amended to include the Federal Savings and Loan Insurance Corporation; to allow the Board to so act on an expedited basis, regardless of whether the

bank is state-chartered or federally-chartered; and to also allow the Commissioner to act without requirements of notice if a federal insurer has been named liquidating agent.

The present statute requires that all state-chartered savings banks and co-operative banks have their deposits insured by a federal deposit insurance agency. Sections 3 and 5 of the proposed legislation would require any newly-chartered savings bank and co-operative bank to be so insured before being authorized by the Board to begin business. Section 2 and section 4 would increase to one year the time period for savings and co-operative banks to complete all requirements in order to transact business.

4. AN ACT RELATIVE TO THE IMPLEMENTATION OF CERTAIN BANKING LAWS.

With the conversion of a number of state-chartered banks from mutual to stock corporations as well as those banks which have been recently chartered, more institutions are governed by the statute governing the payment of dividends by banks in stock, form. That statute, section 28 of chapter 172 of the General Laws, has not been updated for many years. Section 1 of this recommendation would rewrite that law to clarify the timing and payment of dividends and the base upon which such dividends are to be calculated. Certain terms are also now defined within that statute.

State-chartered savings banks, co-operative banks and trust companies are allowed under the leeway law, so called, to make any investment not otherwise authorized by law. Section 2 of this legislation amends the leeway law to limit the amount invested in or loaned to any person under this statuted to ten percent of its capital stock, surplus account and undivided profits if a stock corporation and ten percent of surplus if a mutual institution. The recommendation would also require a bank to file a written notice of the particulars of the investment with the Division. The notice must be submitted thirty days in advance of the investment.

Chapter 485 of the Acts of 1984 established the Thrift Institutions Fund For Economic Development. Among other things, the purpose of the Fund is to create and retain jobs in the Commonwealth through loans to mature and developing industries. The Fund's resources are drawn, pro rata, from the savings banks, co-operative banks, federal savings banks and federal savings and loan associations in Massachusetts. Currently, the Fund's call upon each institution is based upon the bank's assets. In order to more accurately make the calculation, section 3 seeks to change the base upon which the call is made from assets to deposits in the Commonwealth. All other provisions of existing law are retained.

5. AN ACT RELATIVE TO THE OPERATION OF CERTAIN BANKING LAWS.

This lengthy recommendation seeks to address various matters which have confronted the Division in its efforts to implement or work within existing statutes. Although some provisions are substantive, the Division views the majority as technical measures.

Prior to the recodification and equalization of powers in the Massachusetts banking laws, the investment powers of various state-chartered financial institutions were tied to the legal list of investments for savings banks, so called. That list is to be prepared annually by this Office and it is to include those obligations which meet statutory criteria or have been approved through a petitioning process also set out in law. The expanded investment powers for savings banks and co-operative banks which were included with the recodification eliminated their need to rely on the legal list. However, state-chartered credit unions still rely on the list and were substituted for savings banks as the body to initiate the petitioning process for certain new investments. The role of credit unions in that process has been stymied by the fact that their investment authorities are limited by their governing statute, Chapter 171.

This recommendation seeks to make two changes to the process for preparing the legal list. Section 2 would eliminate the petitioning process and allow the Commissioner to add those investments to the list which meet the existing statutory criteria as well as the provisions added by this legislation. Section 1 would insert into statute the criteria for the determination of a legal list investment which is now in the law governing the petitioning process. These changes will both clarify the preparation of the list and the legality of investments made under this authority while maintaining the statutory provisions which seek to insure that such investments are marketable and liquid.

Sections 10 and 20 of the recommendation, governing stock conversions of savings banks and co-operative banks, respectively, seek to substitute the process applicable to other state agencies for legislative review of regulations for the existing cumbersome process now required for promulgation of stock conversion regulations. These sections also clarify the law relative to establishing an investigation fee for the Division's activities relative to such an application while also clarifying the applicability of certain laws after conversion.

Sections 6, 15, 21 and 25 applicable to savings banks, co-operative banks, credit unions and trust companies seek to clarify the statutes governing restrictions on interlocking directors and officers of such institutions. These amendments would specify that the existing laws would apply only to interlocking positions within banks which have their main office in the Commonwealth.

Sections 7, 8, 9 and 11 applicable to savings banks and sections 16, 17, 18 and 19 relative to co-operative banks amend those provisions of law governing mergers and acquisitions involving those institutions. The changes seek only to require that all affected insurers give notice to the Commissioner that arrangements satisfactory to each such insurer have been made for any such transaction. The existing statutes, in general, currently refer only to those funds which now serve as excess insurer to these banks.

Sections 12, 13 and 14 merely seek to update the law governing foreign transmittal agencies which has not been substantively amended since 1949.

The definition of "banking institution" in Chapter 167A of the General Laws which governs bank holding company activities presently only recognizes federal mutual savings banks. Federal savings banks, however, may be in either mutual or stock form. Section 3 seeks to have the definition cover all such institutions for the purposes of that Chapter and does so by merely deleting the word "mutual" from the present law.

Sections 4 and 5 of this legislation seek to technically correct the cite of an aggregate investment limitation on certain bank stocks. Section 4 deletes the provision from the loan statute while section 5 properly inserts it into the investment law.

The remaining three sections of the recommendation affect only credit unions. Section 22 would establish a process in state law for a state-chartered credit union to convert to a federal charter. Section 24 addresses mergers of state-chartered credit unions and federally-chartered credit unions while section 23 eliminates the technical requirement for the Massachusetts Credit Union Share Insurance Corporation to sign the certificate establishing the effective date for a merger of a credit union which it insures. The recommendation retains the provision from present law requiring that insurer to approve any such merger.

6. AN ACT RELATIVE TO THE REORGANIZATION OF STATE-CHARTERED STOCK BANKS.

Prior to the passage of the regional interstate banking law in 1982, a state-chartered trust company could reorganize into a holding company structure pursuant to the provisions of section 4A of Chapter 167A which, among other things, required only the approval of the Commissioner of Banks. If the reorganization were to involve more than one such bank, the matter would go before the Board of Bank Incorporation consistent with the general provision of Chapter 167A which governs acquisitions by and formation of a bank holding company. In conjunction with the regional interstate law, the definition of banking institution was expanded to include all banks within the region. That definition, however, also became applicable to an internal reorganization pursuant to section 4A. As a consequence, the statutes could now require the Commissioner of Banks to pass upon a reorganization of an institution not otherwise subject to the jurisdiction of this Division. Moreover, the provisions of section 4A would conflict with the governance provisions of federal law applicable to such institution.

This recommendation would address this situation by technically removing section 4A from Chapter 167A, section 1 of the bill, and inserting it, by section 4, into a law applicable only to state-chartered trust companies. Sections 2 and 3 governing

state-chartered savings banks and co-operative banks in stock form, respectively, would make this statute applicable to those institutions as well. All of the authorities of the Board of Bank Incorporation are retained by this recommendation.

7. **AN ACT RELATIVE TO THE REGULATORY POWERS OF THE COMMISSIONER OF BANKS.**

Under existing law, the Commissioner may call a meeting of a ban's board of directors or trustees for the purpose of giving said board directions and recommendation relative to the operation of the bank. Section 1 of this recommendation would clarify the Commissioner's authority to issue cease and desist orders while requiring such orders to be issued pursuant to regulations promulgated by the Division of Banks.

The Commissioner is authorized to name a conservator of a trust company under the provisions of sections 40 to 47, inclusive, of chapter 172 of the General Laws. Section 2 of this legislation would insert the provisions of those eight sections of law into one statute within chapter 167 while section 3 would technically repeal those sections in chapter 172. The affect of this amendment is to allow the Commissioner to name a conservator for any state-chartered bank instead of only a trust company. That authority would give the Commissioner additional flexibility in addressing matters affecting savings banks or co-operative banks whether in mutual or stock form or a credit union.

If it were to appear to the Commissioner that state-chartered savings bank was in an unsound or unsafe condition to transact the business for which it was organized, current law prevents him from turning possession and control of the bank over to the Mutual Savings Central Fund, Inc., the exess deposit insurer for each such bank. It, however, a co-operative bank was involved a separate law would allow the Commissioner to turn the operation of that bank over to The Co-operative Central Bank, the excess insurer for state-chartered co-operative banks. Section 4 of this recommendation amends the act governing the Mutual Savings Central Fund, Inc. to authorize the Commissioner to certify s savings bank to that Fund for operation by it of for the liquidation of the bank's affairs. This amendment would give the Commissioner the same option in addressing matters in a savings bank that the law currently grants him for a co-operative bank.

8. **AN ACT RELATIVE TO THE DISCLOSURE OF FEES OR CHARGES ASSESSED A CUSTOMER FOR USE OF AN ELECTRONIC BRANCH.**

This recommendation seeks to provide customers who use electronic branches clear and meaningful disclosure of the costs associated with each such transaction. The legislation requires initial disclosure on the terminal's screen that there may be charges incurred for use of the electronic branch. It would also require subsequent disclosure in the periodic statement for each account accessed on both a per transaction basis as well as on an aggregate basis per type of transaction. Any electronic fund transfer system or network fees or charges would also be required to be so disclosed.

9. **AN ACT RELATIVE TO THE LIST OF LEGAL INVESTMENTS PREPARED BY COMMISSIONER OF BANKS.**

Prior to the recodification and equalization of powers in the Massachusetts banking laws, the investment powers of various state-chartered financial institutions were tied to the legal list of investments for savings banks, so called. That list is to be prepared annually by this Division and is to include those obligations which meet statutory criteria or have been approved through a petitioning process also set out in law. The expanded investments powers for savings banks and co-operative banks which were included with the recodification eliminated their need to rely on the legal list. However, state-charted credit unions still rely on the list and were substituted for savings banks as the body to initiate the petitioning process for certain new investments. The role of credit unions in that process has been stymied by the fact that their investments authorities are limited by their governing statute, Chapter 171.

Unlike in previous years, the Division has refiled this language as a separate recommendation due to increased focus on the need to address this issue. During the past several months the currency of the legal list has been questioned by legislators, credit unions, pension funds and investment advisors to various entities. Most of the inquiries involve investments options that exist today which were not included in statute when the laws governing the legal list were frozen in place as they appeared on June 30, 1983 in conjunction with the recodification and equalization of Massachusetts banking laws which occurred on July 1 of that year. That interest may result in additional petitions being filed or amendments being sought to this recommendation. For those reasons, the Division has isolated this issue in a separate bill.

10. **AN ACT RELATIVE TO THE RECEIPT OF DEPOSITS FOR TRANSMITTAL TO FOREIGN COUNTRIES.**

This recommendation seeks to rewrite the statutes governing people who engage or are financially interested in the business of receiving deposits of money, for the purpose of transmitting the same or equivalents to foreign countries. Those statutes are set out in chapter 169 of the General Laws which has not been substantively amended since 1949. The Division of Banks has responsibility under the statute for the licensing and examination of persons involved in this business. In previous sessions the Division sought limited amendments to update certain existing provisions.

During the last year or so this business has seen increased activity and additional scrutiny from the Division and other regulatory agencies. The nationalization of banks in Brazil disrupted transmissions to that country and resulted in money not being received by those to which it was sent. Additionally, compliance with currency transmittal reports continued to be a concern. These on-going developments caused the Division to review the outdated existing statute. Based upon that review, the Division has filed this recommendation to update the entire chapter. The recommendation

incorporates language presently in statute governing other licensees of the Division. Currently, the Division is reviewing the model statute applicable to such foreign transmittal agencies used by other states. If that analysis revealed more appropriate language specific to this business, it would bring that information to the Committee's attention during the session.

11. **AN ACT RELATIVE TO THE INVESTMENT IN CERTAIN BONDS AND OTHER EVIDENCES OF INDEBTEDNESS BY STATE-CHARTERED BANKS.**

State-chartered banks are presently authorized to invest in bonds and other evidences of indebtedness of corporations, and certain associations or trusts. The current statute does not specify any minimum standards relative to the quality of such bonds or indebtedness. The singular intent of this recommendation is to amend the existing law by adding a provision requiring any such bonds or other evidences of indebtedness to be at least investment grade as rated by a national rating service. This proposal would therefore restrict a bank's ability to invest in so-called junk bonds. Other investment authorities of banks are not affected by this recommendation.

12. **AN ACT RELATIVE TO THE APPROVAL OF CERTAIN MERGERS OR ACQUISITIONS BY THE COMMISSIONER OF BANKS.**

Under existing law, a merger or acquisition involving a state-chartered bank generally requires an application to and approval by the Commissioner of Banks before any such action can be consummated. Statutes passed in 1982 authorizing such transactions across both industry and federal/state chartering lines, recognized that the banks could have their deposits insured by different funds. Accordingly, those amendments required that arrangements satisfactory to each insurer had been made for the transaction prior to the Commissioner granting any approval. Today, however, all state-chartered banks are insured by the Federal Deposit Insurance Corporation ("FDIC"). Insurance funds existing for savings banks and co-operative banks remain as insurer of only the deposits in excess of federal coverage in those institutions.

The FDIC as a federal agency has its own statutory and administrative procedures required for each such transaction. Those procedures, among other things, may not require the same matters to be considered as required by Massachusetts law, or may not be on the same timing cycle as the application pending before the Division. That latter point is important since public notice, advertising and reporting is generally done for each such application before the Division. As a separate state agency operating under requirements of Massachusetts law and a publicly announced schedule, the Division believes it should be able to act on such matters without waiting for decisions by other entities. As indicated, the FDIC will still have its authority to consider such applications under federal law and its own procedures, while the separate deposit insurance funds for savings banks and co-operative banks, acting solely as excess deposit insurers, have a role greatly reduced from when the existing provisions were enacted.

The major thrust of this recommendation is to eliminate the requirement that approval of other entities be obtained before the Commissioner can act on applications required to be filed with this Division. Nine sections of the legislation delete the provision at issue from merger and acquisition laws governing savings banks, co-operative banks and trust companies. One section, section 8, deletes similar language involving a merger by a state-chartered credit union insured by the Massachusetts Credit Union Share Insurance Corporation.

The remaining section of the recommendation, section 9, deletes a provision relative to the change in control of a state-chartered stock bank which eliminates the need for an application to be filed with the Division if the filing is done with a federal agency. That agency is generally the FDIC, since again, all state banks are insured by it. When he Division initially suggested that language in the statute several years ago, all banks were not so insured. In conjunction with the other change sought herein, the Division believes a separate application should be filed with the state agency which is the primary regulator for the bank involved in such a change of control transaction.

13. AN ACT RELATIVE TO AGGREGATE LOAN AND INVESTMENT LIMITATIONS GOVERNING CREDIT UNIONS.

Chapter 79 of the acts of 1990 was landmark legislation which recodified the laws governing state-chartered credit unions for the first time since 1926. The recodification was achieved, in part, because it did not make any substantive change to the laws then governing credit unions. The process that led to the recodification revealed an inconsistency in the then existing laws which was not addressed in order to remain true to the principle of no substantive change. The recodification, however, highlights this issue. Consistent with the framework of credit union law the majority of lending and investment authorities granted are conditioned upon certain restrictions, including an aggregate limit on the amount of activity under each such authority. The Division's review of the loan and investment statutes revealed upwards of thirty such aggregate limitations. Reflecting the numerous amendments to the law over the sixty-four years prior to the recodification, neither the language of such limits nor the base upon which they are calculated, were consistent. Some limitations referred to deposits, some to assets and some to deposits, reserves and surplus accounts. At least five different bases were noted.

The main trust of this recommendation is to amend each of the lending and investment sections so that a stated aggregate limit is consistent both in language and the base upon which it is calculated. For this purpose the Division has proposed in each provision that the limit be based on a percentage of the credit union's assets. Since this is an aggregate limit on a class of authority, rather than a limit of involvement base. Depending on the existing law, the change in the base may result in some increased or decreased aggregate authority. In

one situation involving recreational vehicle loans, the Division added an aggregate limit where none currently existed. Moreover, for home improvement loans the percentage limit was reduced to that for similar classes of loans, second mortgages and open end loans, in conjunction with the change to assets. Overall, the consistency achieved, will be important to the credit unions subject to the limitations and the Division in its enforcement of those provisions.